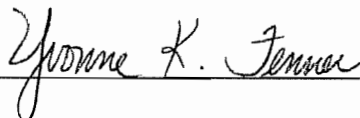


REPORTER'S CERTIFICATE

I hereby certify the foregoing hearing was held at the time and place therein named; that the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting.

In witness whereof, I have hereunto set my hand this 31st day of January, 2002.



Yvonne K. Fenner
Certified Shorthand Reporter
License No. 10909

MINUTES

COMMISSION ON STATE MANDATES

State Capitol, Room 126

Sacramento, California

January 24, 2002

Present: Chairperson Annette Porini
Representative of the Director of the Department of Finance
Member William Sherwood
Representative of the State Treasurer
Member Sherry Williams
Representative of the Director of the Office of Planning and Research
Member John Harrigan
Representative of the State Controller
Member Joann Steinmeier
School Board Member
Member John Lazar
City Council Member
Vacant: Public Member

CALL TO ORDER AND ROLL CALL

Chairperson Porini called the meeting to order at 9:41 a.m.

ELECTION OF OFFICERS

Item 1 Election of Chairperson and Vice Chairperson

Paula Higashi, Executive Director, noted that state law requires the members to elect a chairperson and vice chairperson for the Commission on State Mandates. She added that under Robert's Rules of Order, nominations may be made and a vote taken, or a motion and a second may be made to elect a specific member as chairperson or vice chairperson.

Member Sherwood nominated Timothy Gage, the Director of the Department of Finance, represented by Ms. Annette Porini, as Chair. With a second by Member Williams, Mr. Gage was unanimously elected. Chairperson Porini nominated Phil Angelides, State Treasurer, represented by Mr. Bill Sherwood, as Vice Chair. With a second by Member Steinmeier, Mr. Angelides was unanimously elected.

APPROVAL OF MINUTES

Item 2 December 12, 2001

Upon motion by Member Williams and second by Member Sherwood, the minutes were unanimously adopted.

PROPOSED CONSENT CALENDAR

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7

PROPOSED STATEMENTS OF DECISION - INCORRECT REDUCTION CLAIMS

Item 4 *Graduation Requirements*, 4435-I-35
Grossmont Union High School District, Claimant
Education Code Section 51225.3
Statutes of 1983, Chapter 498

Item 5 *Graduation Requirements*, 4435-I-06 & 4435-I-38
Clovis Unified School District, Claimant
Education Code Section 51225.3
Statutes of 1983, Chapter 498

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

STATEWIDE COST ESTIMATES

Item 11 *Sexual Harassment Training in the Law Enforcement Workplace*, 97-TC-07
County of Los Angeles, Claimant
Penal Code Section 13519.7
Statutes of 1993, Chapter 126

Item 12 *Mentally Disordered Offenders' Extended Commitment Proceedings*, 98-TC-09
County of Los Angeles, Claimant
Penal Code Sections 2970, 2972, and 2972.1
Statutes of 1985, Chapter 1418; Statutes of 1986, Chapter 858; Statutes of 1987, Chapter 687; Statutes of 1988, Chapters 657 and 658; Statutes of 1989, Chapter 228; Statutes of 1991, Chapter 435; and Statutes of 2000, Chapter 324

Item 13 *Elder Abuse Law Enforcement Training*, 98-TC-12
City of Newport Beach, Claimant
Penal Code Section 13515
Statutes of 1997, Chapter 444

Item 14 *Extended Commitment – Youth Authority*, 98-TC-13
County of Alameda, Claimant
Welfare and Institutions Code Sections 1800, 1801, and 1801.5
Statutes of 1984, Chapter 546; Statutes of 1998, Chapter 267

ADOPTION OF ANNUAL RULEMAKING CALENDAR

Item 15 2002 Rulemaking Calendar (Gov. Code, § 11017.6.)

Member Steinmeier moved for adoption of the consent calendar. With a second by Member Lazar, the consent calendar, consisting of items 4, 5, 11, 12, 13, 14, and 15, was unanimously adopted.

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7

TEST CLAIM

- Item 3 *Community College District Budget and Financial Reports, Fiscal Management Reports, and Financial and Compliance Audits 97-TC-10, 11, 12*
Santa Monica Community College District, Claimant
Education Code Sections 84030, 84040, and 84040.5
Statutes of 1977, Chapters 36 and 936; Statutes of 1978, Chapter 207; Statutes of 1979, Chapter 221; Statutes of 1980, Chapter 884; Statutes of 1981, Chapters 470, 471, 930, and 1178; Statutes of 1983, Chapter 1206; Statutes of 1984, Chapters 609 and 1282; Statutes of 1986, Chapter 1486; Statutes of 1987, Chapter 1025; Statutes of 1990, Chapter 1372; Statutes of 1994, Chapter 20; California Code of Regulations, Title 5, Sections 58300-58301, 58303- 58308, 58310-58312, 58314, 58316, 58318, 59100, 59102, 59104, 59106, 59108, 59110, 59112, and 59114; 1991 California Community Colleges Contracted District Audit Manual and subsequent revisions through June 1996; 1993 California Community Colleges Budget and Accounting Manual and subsequent Accounting Advisories dated through May 30, 1997

Katherine Tokarski, Commission Counsel, presented this item. She announced that an errata sheet had been provided for item 3. She noted that the claimant filed three test claims alleging reimbursable state-mandated costs for activities performed by community college districts for periodically preparing and submitting various budget and fiscal management reports to the state, and for engaging in annual financial and compliance audits in compliance with the test claim legislation and executive orders. The three test claims were consolidated for hearing due to the overlap between the claims, including shared exhibits and correspondence.

Ms. Tokarski stated that the Department of Finance's position is that the test claim legislation does not constitute new programs or higher levels of service within existing programs. She added that the Department of Finance contends that the challenged internal accounting functions and fiscal responsibility standards are part of the community college districts' normal overhead and operating costs. She also noted the claimant's contention that the test claim legislation does require specific new activities related to the administration of district budgets, audits, and fiscal management practices.

Ms. Tokarski explained staff's finding that community college districts were required under prior law to engage in extensive budget, fiscal management, and audit activities, following a standardized accounting system as expressed in a state-published accounting manual. She further explained that prior law required districts to have an annual audit using audit standards and procedures prescribed by the State and performed by a CPA at the expense of community

college districts. Therefore, staff found that use of the Budget and Accounting Manuals and the Audit Manual do not constitute new programs or higher levels of service.

Ms. Tokarski also indicated that the 22 Title 5 regulations included in the test claim are continuations of prior law. She noted the claimant's assertion that a gap existed between the repeal of certain Education Code sections and the enactment of each of the corresponding regulations. The claimant concluded that even if the regulations were identical to corresponding Education Code sections, they were new and should be a reimbursable state mandate. However, Ms. Tokarski quoted Statutes of 1990, chapter 1372, section 708, subdivision (a), and asserted that the legislature has the authority to make the operative date of any part of a statute dependent upon a contingency. Accordingly, staff found that the statutes named in section 708, subdivision (a), continued in legal, operative effect until corresponding regulations were adopted, thereby avoiding a gap in the legal requirements.

Ms. Tokarski stated that staff found five regulations to impose new programs or higher levels of service within existing audit or budget programs for specific new activities. She also acknowledged that an error was made in the analysis regarding regulation section 58313, Requirement for Employee Indemnity Bond. She explained that a gap in the law did occur, and therefore, staff changed its conclusion for this section.

Staff recommended that the Commission approve the test claim for the specific new community college district activities as set forth in the conclusion of the staff analysis, with the modifications expressed in the errata sheet.

Parties were represented as follows: Keith Petersen, representing Santa Monica State College; and Ramon de la Guardia and Randy Katz, for the Department of Finance. The witnesses were sworn in.

Member Sherwood requested clarification regarding the errata sheet versus the conclusion in the analysis. Ms. Tokarski provided the clarification, noting that her analysis did not change for any Education Code section that was named as continuing until the corresponding regulation was adopted. The only regulation for which the conclusion was changed is section 58313, Requirement for Employee Indemnity Bond, which is a new program or higher level of service.

Mr. Petersen disagreed with the staff analysis and had three main issues. Two issues related to the test claim's three Education Code sections, which pertain to accounting standards, budget reporting, and audits. He noted staff's conclusion that community college districts, whether part of K-12 or as a separate governmental entity, were required to follow a standardized accounting system as expressed in a state-published accounting manual under prior law. Mr. Petersen did not disagree. However, he argued that at issue is whether the new accounting manual has additional requirements compared to the manual that existed in 1975. He contended that additional activities were required. Mr. Petersen maintained that there is no support in the staff position to presume that the accounting and audit manuals were the same, and therefore, the documents have to be compared to see if there are new requirements.

The last issue related to the gap in the legal requirements. Mr. Petersen noted that staff only recognized a gap in the law for one or two code sections, whereas the claimant maintains that a gap existed in all 22 of the Title 5 sections. He asserted that staff accurately stated the law of

statutes that go into effect contingently in the future. However, he maintained that none of the cases cited by staff in support of its position apply to the test claims here, because they do not involve issues regarding repealed law. He noted that staff did not provide copies of the cases.

Mr. Petersen argued that legislative intent is not law. He added that once a statute repeals a code section, then it is dead law. He notes staff's position that because of the legislature's intent, the code sections were never really repealed. He disagreed and maintained that staff's analysis failed for mechanical reasons. Mr. Petersen indicated that staff took the 22 Title 5 regulations and compared them to the repealed Education Code sections to see if the regulations replaced the repealed sections. He asserted that staff did not go back to compare the repealed Education Code sections to the Title 5 regulations.

Member Steinmeier asked Mr. Petersen if he did an analysis and if he could provide any examples of differences between the accounting manuals. Mr. Petersen replied that his analysis never became necessary. Member Steinmeier also asked Mr. Petersen for a technical clarification regarding the method of analysis. Mr. Petersen provided that clarification.

Member Steinmeier then raised a question to the other members regarding how much weight intent language should be given, noting that it is not actual statute. Member Lazar expressed the same concern.

Ms. Tokarski maintained that intent language is uncodified statute. She added that she drew her conclusions from the sentence that is not intent language, which stated, "Should the Board of Governors fail to adopt and put into effect regulations in accordance with subdivision (a), the listed statutes shall remain operative until the effective date of the corresponding Board of Governors regulations." She noted that the histories of the code sections cite this and the repeal dates were changed accordingly.

Mr. de la Guardia concurred with staff regarding intent language. Noting the Budget Act, he clarified that uncodified law has the same effect as codified law. He also agreed with staff that laws are effective but not necessarily operative until the legislature determines when they are operative.

Member Sherwood agreed with Mr. de la Guardia, adding that the language in the statute regarding the legislature's intent is plain and clear.

Mr. de la Guardia indicated that the Department of Finance's position is that the test claim legislation does not constitute new programs. He added that they are not levels of service to the public, but a fiscal responsibility to manage public funds. He also commented on three of the five regulations that staff found to impose new programs or higher levels of service, concluding that they do not meet the criteria of new programs or higher level of service because they are all contingent on the actions or inactions of the districts.

Regarding the accounting manuals, Mr. de la Guardia asserted that the claimant cannot just submit the manuals and say everything is a new order. He noted that the claimant has a certain burden, which was not met.

Mr. de la Guardia agreed with staff's analysis regarding the effect and re-enactment of a repeal. However, he requested an opportunity to research and respond to the issues raised in the errata sheet.

Mr. Petersen commented that Mr. de la Guardia's argument regarding why the test claim legislation does not constitute new programs or higher levels of service was irrelevant. In response to Mr. de la Guardia's comments regarding the regulations approved by staff, Mr. Petersen maintained that failure to perform is not a reason not to reimburse. Regarding the accounting manuals, he argued that the claimants took a legal position that the entire manual was new because there had been several breaks in time where the manual did not exist. He also maintained that a repealed code section cannot be reenacted.

Mr. de la Guardia repeated his position that there was no gap and no mandates.

Member Steinmeier asked if staff analyzed the gaps in the accounting manuals. Ms. Tokarski responded that she did not find a gap in the law requiring use of the manuals. She noted that to her knowledge, there were manuals in effect the entire time. She further noted that the Education Code sections themselves require that the community college districts continuously use the state-prescribed procedures for audits, accounting, and budgeting, with no gaps.

Member Steinmeier asked another technical question regarding the accounting manuals. Mr. Petersen and staff provided clarification.

Member Harrigan indicated that he was not clear on what the outstanding issues were and where there was disagreement. He requested that staff come back with a summary document that shows what the outstanding issues are. The members agreed.

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8

ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

- Item 6 *School District Fiscal Accountability Reporting*, 97-TC-19 (Formerly known as, Budget Process Financial Statements, and County Oversight)
Alameda County Office of Education, Claimant
Education Code Sections 42100, 42127, 42127.5, 42127.6, 42128, 42131, and Government Code Section 3540.2
Statutes of 1981, Chapter 100; Statutes of 1985, Chapter 185; Statutes of 1986, Chapter 1150; Statutes of 1987, Chapters 917 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1990, Chapter 525; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapters 650 and 1002; and Statutes of 1995, Chapter 525

Cathy Cruz, Program Analyst with the Commission, introduced this item. She noted that on October 26, 2000, the Commission adopted the statement of decision for the *School District Fiscal Accountability Reporting* test claim, determining that the test claim legislation imposed a reimbursable new program upon school districts and/or county offices of education by requiring specific new activities to comply with the budget process. She recommended that the Commission adopt the claimant's proposed parameters and guidelines, as modified by staff.

Parties were represented as follows: Keith Petersen, representing the Alameda County Office of Education; Paul Minney, with Spector, Middleton, Young & Minney for Mandated Cost

Systems; Susan Geanacou, for the Department of Finance; and Jim Spano and Shawn Silva, for the State Controller's Office.

Mr. Petersen submitted that the claimant's proposed parameters and guidelines should be adopted as modified by staff.

Mr. Minney expressed two minor concerns. First, for purposes of clarification, he proposed a grammatical change in the boilerplate language under section VI. Supporting Data. He noted that the definition of supporting documents is followed by "and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements." He argued that as written, the last part of the sentence could be interpreted as a modifier to mean that the examples provided have to be something that is otherwise kept in compliance with local, state, and federal requirements in order to meet the definition of supporting data. He did not think this was staff's intent, so he suggested separating this into two sentences.

Ms. Cruz clarified that staff's intent was just to provide a laundry list of examples of the types of documents that may be submitted. She added that staff did not receive any comments on the issue from any party, including the State Controller's Office.

Mr. Minney indicated that he was content with clarifying on the record that the last part of the sentence was not intended to modify the examples provided.

Mr. Silva maintained that he did not see the last part of the sentence as a modifier, and therefore, did not see a need for the change. He also noted that all incurred costs claimed must be traced to source documents that show evidence of the validity and relationship to the reimbursable activities. He added that "source documents" are a subset of documents and are generally thought of as having been created contemporaneously with the activity, rather than subsequent reporting and verification. For example, he said that invoices and receipts are important for internal operations to verify purchases and payments. If they were summarized in a log, the log itself would be a document but not a source document.

Mr. Minney said his second issue related to the reimbursable activity of certifications. He asked for clarification on whether staff intended to include multiyear projections as a cost associated with completing the certifications.

Ms. Tokarski, Commission Counsel, said that the language used was taken directly from the statement of decision and the statute. She also noted that the language proposed by Mr. Minney is from forms and is common terminology in the schools community. She maintained that it would be clearer to use the language recommended by staff.

Member Steinmeier suggested adding, in brackets or a footnote, that this means "multi-year" since that is terminology understood by claimants. Ms. Tokarski explained that by saying "this means multi-year," some districts might interpret that to mean four or five years out. She clarified that the statutory language only provides for two years and agreed to footnote in the parameters and guidelines that the certifications are commonly referred to as multiyear projections. Mr. Minney concurred.

Mr. Silva concurred, noting Ms. Tokarski's clarification.

Ms. Geanacou noted that the Department of Finance concurred with the State Controller's Office comments and agreed to the change as suggested by staff.

Member Steinmeier made a motion to approve staff's recommendation with the addition of the clarifying footnote. With a second by Member Harrigan, the motion carried unanimously.

- Item 7 *County Office of Education Fiscal Accountability Reporting (formerly known as, County Office Budget Process and Financial Statements)*, 97-TC-20
Alameda County Office of Education, Claimant
Education Code Sections 1240, subdivision (j), 1240.2, 1620, 1622, 1625, 1628, and 1630
Statutes of 1987, Chapters 917 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1990, Chapter 1372; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapters 650 and 1002; Statutes of 1995, Chapter 525
- Item 8 *Employee Benefits Disclosure*, CSM-4502, 98-TC-03
Clovis Unified School District & Sweetwater Unified High School District, Claimants
Education Code Sections 42140 and 42142
Statutes of 1994, Chapter 650; Statutes of 1995, Chapter 525; Statutes of 1996, Chapter 1158
- Item 9 *Law Enforcement College Jurisdiction (formerly known as Campus Safety Plans)*, 98-TC-20
Contra Costa Community College District, Claimant
Education Code Section 67381
Statutes of 1998, Chapter 284

Ms. Higashi noted that there were no substantive issues on the reimbursable activities for items 7, 8, and 9. She said that the remaining issues pertained to the boilerplate language and the clarifications were already offered into the record previously in item 6. Member Steinmeier made a motion to adopt items 7, 8, and 9, noting the clarifications raised by Mr. Minney and Mr. Silva. With a second by Member Harrigan, the motion carried unanimously.

- Item 10 *Standardized Testing and Reporting*, 97-TC-23
San Diego Unified School District, Claimant
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828; California Code of Regulations, Title 5, Sections 850-904

Nancy Patton, Staff Services Manager with the Commission, introduced this item. She noted that on August 24, 2000, the Commission adopted the statement of decision for the *Standardized Testing and Reporting (STAR)* test claim, determining that the test claim legislation imposed a reimbursable new program upon school districts by requiring them, between March 15 and May 15 each year, to test all students in grades 2 through 11 with nationally normed achievement tests designated by the State Board of Education. She added

that school districts were required to administer the designated achievement tests, commonly called the SAT-9. For students of limited English proficiency who were enrolled less than 12 months prior to the test date, school districts were required to administer the primary language test, commonly called the SABLE/2 test.

Ms. Patton noted one outstanding issue: Whether or not an additional test may be included as a reimbursable activity under these parameters and guidelines. The statement of decision for the STAR program only covers Statutes of 1997, chapter 828. Statutes of 2000, chapter 576, which added Education Code section 60642.5, became effective on January 1, 2001, and required school districts to administer a standards-based achievement test. She stated that staff disagreed with the claimant's contention that the new standards-based achievement test should be included in the parameters and guidelines because it is administered concurrently with the other two tests. She explained that there are no Commission findings that the new test constitutes a new program or higher level of service and imposes cost mandated by the state, since the new test was established after the statement of decision was adopted and was not included in the test claim. Therefore, it could not be included in the STAR parameters and guidelines.

Ms. Patton also noted that a technical correction to a footnote was made at the claimant's request. She recommended that the Commission adopt the claimant's proposed parameters and guidelines, as modified by staff.

Parties were represented as follows: Art Palkowitz, representing the San Diego Unified School District; Mike Wilkening, for the Department of Finance; and Jim Spano and Shawn Silva, for the State Controller's Office.

Mr. Palkowitz stated that with the change in the footnote, he concurred with the staff analysis.

Mr. Wilkening stated that the Department of Finance concurred with the staff analysis. However, he noted that the four points specifically listed under section VII. Offsetting Savings and Reimbursements regarding what is reimbursable under school apportionment, is not an inclusive list. He added that the apportionment does include other activities not specifically mentioned.

Ms. Shelton, Commission Counsel, clarified the language. She stated that the first paragraph in section VII states: "In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim."

Mr. Silva supported the staff analysis.

Member Sherwood made a motion to approve the staff recommendation, noting the correction to the footnote. Ms. Higashi added that clarifications made regarding boilerplate language in item 6 are included here. With a second by Member Steinmeier, the motion carried unanimously.

EXECUTIVE DIRECTOR'S REPORT

Item 16 Workload, Legislation, Next Agenda

Ms. Higashi noted the following:

- *Workload.* Staff is finalizing a workplan through August 2002. Test claims have been scheduled for hearing through August, with a maximum of four test claims per hearing. Incorrect reduction claims with closed records have been scheduled through the June hearing.

- *Legislation.*

Local Claims Bill. With the adoption of the statewide cost estimates, staff will take the local government claims bill to the Legislative Counsel.

School Bus Safety II Audit. The report is scheduled to be issued in March.

- *Governor's Budget.*

The Commission, like all state agencies, has experienced reductions in the Governor's proposed budget.

In addition to the usual suspensions for local governments, there are also suspensions proposed in the Department of Education's budget for Prop 98 reimbursements.

The Legislative Analyst's Office is in the process of reviewing the budget. Staff has been sending them copies of all the statements of decision and parameters and guidelines for all the mandated programs currently in the budget so that they have them available for analysis.

- *Future Hearing Agendas.* The next hearing's agenda consists of the Community College District test claims and the Animal Adoption parameters and guidelines. The March agenda consists of incorrect reduction claims and the Megan's Law parameters and guidelines.

PUBLIC COMMENT

Chairperson Porini introduced former Commission member, Al Beltrami, to thank and recognize him for his dedicated service to the State of California. Chairperson Porini also presented him with a resolution on behalf of Commission members and staff. Following comments from the members, Mr. Allan Burdick, representing the League of California Cities and the California State Association of Counties Advisory Committee on State Mandates, came forward to pay tribute and present a gift to Mr. Beltrami. Mr. Beltrami expressed his appreciation for the opportunity to serve on the Commission.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.*, Case Number B140704, in the Appellate Court of California, Second Appellate District, Division 2.
2. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number D038027, in the Appellate Court of California, Fourth Appellate District, Division 1.
3. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
4. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number C037645, in the Appellate Court of California, Third Appellate District.
5. *City of San Diego v. Commission on State Mandates, et al.*, Case Number D039095 in the Appellate Court of California, Fourth Appellate District.
6. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.
7. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number BS069611, in the Superior Court of the State of California, County of Los Angeles.
8. *County of San Bernardino v Commission on State Mandates of the State of California et al.*, Case Number SCVSS72444, in the Superior Court of the State of California, County of San Bernardino.
9. *County of San Diego v. Commission on State Mandates, et al.*, Case Number GIC762953, in the Superior Court of the State of California, County of San Diego.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a), and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

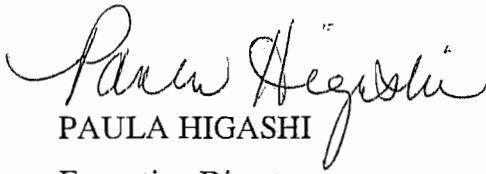
Hearing no further comments, Chairperson Porini adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

REPORT FROM CLOSED EXECUTIVE SESSION

Chairperson Porini reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

ADJOURNMENT

Hearing no further business and upon motion by Member Steinmeier and second by Member Williams, Chairperson Porini adjourned the meeting at 12:03 p.m.


PAULA HIGASHI
Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828; Title 5, California Code of Regulations, Sections 850-874;

Filed on October 31, 1980 and September 26, 1996;

By the San Diego Unified School District,
Claimant.

No. 97-TC-23

Standardized Testing and Reporting

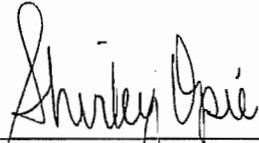
ADOPTION OF PARAMETERS AND
GUIDELINES PURSUANT TO
GOVERNMENT CODE SECTION 17557
AND TITLE 2, CALIFORNIA CODE OF
REGULATIONS, SECTION 1183.12

(Adopted on January 24, 2002)

ADOPTED PARAMETERS AND GUIDELINES

The attached Parameters and Guidelines is hereby adopted in the above-entitled matter.

This Decision shall become effective on February 4, 2002.


4 PAULA HIGASHI, Executive Director

Parameters and Guidelines

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643

Statutes of 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-904¹

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Statutes of 1997, chapter 828, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, chapter 828, and the implementing regulations at California Code of Regulations, title 5, sections 850-904, established the Standardized Testing and Reporting (STAR) Program related to achievement testing that school districts must administer to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution, and costs mandated by the state pursuant to Government Code section 17514.

II. ELIGIBLE CLAIMANTS

Any "school district," as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test

¹ The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

claim for this mandate was filed on March 24, 1998. Statutes of 1997, chapter 828, was an urgency statute effective on October 10, 1997.² Therefore, costs incurred on or after October 10, 1997 for compliance with the mandate are reimbursable, unless otherwise specified below.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial year's costs shall be submitted within 120 days from the date on which the State Controller's Office issues claiming instructions.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

For each eligible claimant, the following activities to administer the designated achievement and primary language tests are eligible for reimbursement.³

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site)
- Developing internal policies, procedures, and forms to implement *Standardized Testing and Reporting*. (One-time activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

B. Test Materials, Supplies, and Equipment (*Reimbursement period: January 2, 1998 – December 15, 1999*)

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.⁴) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.

² The implementing regulations, however, were effective January 2, 1998.

³ Only the designated achievement and primary language tests enacted by Statutes of 1997, chapter 828 are reimbursable, pursuant to these parameters and guidelines.

⁴ Cal. Code Regs., tit. 5, §§ 860 and 873 were repealed effective December 16, 1999.

- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.⁵)

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.⁶)

C. Pretest and Posttest Coordination (*Reimbursement period begins January 2, 1998*)

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), and 881, subd. (a).)
- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subs. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), and 881, subd. (b).)
- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),⁷ and 882, subd. (c).)
- Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, and 899.)
 - From January 2, 1998 through December 31, 2000, the STAR program district coordinator shall be available through June 30 to complete school district testing.
 - Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.
- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, and 899.)
 - From January 2, 1998 through December 31, 2000, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through June 30 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
 - Beginning January 1, 2001, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

⁵ Cal. Code Regs., tit. 5, §§ 856, 869, and 871 were repealed effective December 16, 1999.

⁶ Cal. Code Regs., tit. 5, § 856 was repealed effective December 16, 1999.

⁷ Cal. Code Regs., tit. 5, § 853, subd. (c), was formerly § 852, subd. (b).

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, and 896, subd. (a).)
- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), and 895, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, and 899.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), and 886.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)

D. Test Administration (*Reimbursement period begins January 2, 1998*)

- Conducting and monitoring the STAR Program designated achievement and primary language tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, and 884.)
- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

E. Reporting and Record Keeping (*Reimbursement period begins January 2, 1998*)

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 863 and 892.)
- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 and 893.)
- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 and 891.)
- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 and 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

V. CLAIM PREPARATION AND SUBMISSION

Each claim for reimbursement pursuant to this mandate must be timely filed and identify each of the following cost elements to each reimbursable activity identified in Section IV of this document.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central

governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. SUPPORTING DATA

A. Source Documents

For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of the validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

B. Record Keeping

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended.* See the State Controller's claiming instructions regarding retention of required documentation during the audit period.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

Specifically, reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, shall be offset by funding provided in the State Budget for the STAR Program.

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant shall be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.

IX. PARAMETERS AND GUIDELINES AMENDMENTS

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2

COMMISSION ON STATE MANDATES

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January 25, 2002

Mr. Keith Petersen
President
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5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

And State Agencies and Interested Parties (See Enclosed Mailing Lists)

Re: **Parameters and Guidelines**

School District Budget Process, Financial Statements and County Office Oversight, 97-TC-19

County Office of Education Fiscal Accountability Reporting, 97-TC-20

Standardized Testing and Reporting, 97-TC-23

Employee Benefits Disclosure, CSM 4502, 98-TC-03

Law Enforcement College Jurisdiction Agreements, 98-TC-20

Dear Mr. Petersen and Mr. Palkowitz:

Following adoption of the Parameters and Guidelines referenced above at the January 24, 2002 hearing, staff determined that a technical clarifying amendment was necessary. In section VI. Supporting Data, the first sentence under Record Keeping states:

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district *pursuant to this chapter* is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. (Emphasis added.)

Staff proposes to add a footnote after this sentence in each of the Parameters and Guidelines referenced above to clarify that "pursuant to this chapter" refers to Title 2, division 4, part 7, chapter 4 of the Government Code (see enclosed copy of section VI. Supporting Data). Unless any party objects by Friday, February 1, 2002, this modification will be made and the adopted Parameters and Guidelines referenced above will be issued on Monday, February 4, 2002.

Please contact Cathy Cruz at (916) 323-8218 with questions.

Sincerely,

PAULA HIGASHI
Executive Director

Enclosure
cc: Mailing Lists

VI. SUPPORTING DATA

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B. Record Keeping

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended.* See the State Controller's claiming instructions regarding retention of required documentation during the audit period.

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Commission on State Mandates

List Date: 01/20/1998

Mailing Information Parameters & Guidelines

Mailing List

Claim Number 97-TC-19 Claimant Claim of Alameda County Office of Education

Subject 1158/96 et al.

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Subject

1158/96 et al.

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1158/96 et al.

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Commission on State Mandates

List Date: 01/20/1998

Mailing Information Parameters & Guidelines

Mailing List

Claim Number 97-TC-20 Claimant Claim of Alameda County Office of Education

Subject 525/95

Issue County Office budget Process and Financial Statements

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Subject 525/95

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525/95

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Commission on State Mandates

List Date: 04/10/1998

Mailing Information Parameters & Guidelines

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Standardized Testing and Reporting

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Subject: Chapter 828, Statutes of 1997
Issue: Standardized Testing and Reporting

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Chapter 828, Statutes of 1997

Issue

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Subject

Chapter 828, Statutes of 1997

Issue

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Commission on State Mandates

List Date: 04/03/1996

Mailing Information Parameters & Guidelines

Mailing List

Claim Number CSM-4502 (98-TC-03) Claimant Claim of Clovis Unified School District

Ed. Code Section 42140 & 42141

Subject 650/94

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Ed. Code Section 42140 & 42141

Subject

650/94

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Commission on State Mandates

List Date: 06/30/1999

Mailing Information Parameters & Guidelines

Mailing List

Claim Number 98-TC-20 Claimant Contra Costa Community College District

Education Code Section 67380, 67381

Subject 284/1998, et al

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Subject

284/1998, et al

Issue

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Issue

284/1998, et al

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February 4, 2002

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And Affected State Agencies and Interested Parties (See Attached Mailing List)

RE: Adopted Parameters and Guidelines
Standardized Testing and Reporting, 97-TC-23
Education Code Sections 60607, et al
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz and Mr. Haas:

On January 24, 2002, the Commission on State Mandates (Commission) adopted the parameters and guidelines for this test claim. On January 25, 2002, the Commission proposed to add a clarifying footnote in section VI. Supporting Data. No party objected this technical amendment. Therefore, the modification was included.

A copy of the final parameters and guidelines is enclosed. If you have any questions, please contact Ms. Nancy Patton at (916) 323-3562.

Sincerely,

4 PAULA HIGASHI
Executive Director

Enclosure

j:/Mandates/1997/t97-tc-03/psgs/012402adoptpgtrns

MAILED: ☒ 2/4/02
DATE: 2/4/02
INITIAL: VS
FAXED: ☒
CHRON: ☒
FILE: ☒
WORKING BINDER: ☒

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828; Title 5, California Code of Regulations, Sections 850-874;

Filed on October 31, 1980 and
September 26, 1996;

By the San Diego Unified School District,
Claimant.

No. 97-TC-23

Standardized Testing and Reporting

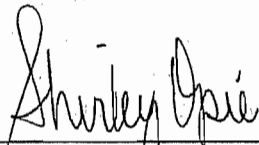
ADOPTION OF PARAMETERS AND
GUIDELINES PURSUANT TO
GOVERNMENT CODE SECTION 17557
AND TITLE 2, CALIFORNIA CODE OF
REGULATIONS, SECTION 1183.12

(Adopted on January 24, 2002)

ADOPTED PARAMETERS AND GUIDELINES

The attached Parameters and Guidelines is hereby adopted in the above-entitled matter.

This Decision shall become effective on February 4, 2002.


4 PAULA HIGASHI, Executive Director

Parameters and Guidelines

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643

Statutes of 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-904¹

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Statutes of 1997, chapter 828, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, chapter 828, and the implementing regulations at California Code of Regulations, title 5, sections 850-904, established the Standardized Testing and Reporting (STAR) Program related to achievement testing that school districts must administer to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution, and costs mandated by the state pursuant to Government Code section 17514.

II. ELIGIBLE CLAIMANTS

Any "school district," as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test

¹ The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

claim for this mandate was filed on March 24, 1998. Statutes of 1997, chapter 828, was an urgency statute effective on October 10, 1997.² Therefore, costs incurred on or after October 10, 1997 for compliance with the mandate are reimbursable, unless otherwise specified below.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial year's costs shall be submitted within 120 days from the date on which the State Controller's Office issues claiming instructions.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

For each eligible claimant, the following activities to administer the designated achievement and primary language tests are eligible for reimbursement:³

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site)
- Developing internal policies, procedures, and forms to implement *Standardized Testing and Reporting*. (One-time activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

B. Test Materials, Supplies, and Equipment (*Reimbursement period: January 2, 1998 – December 15, 1999*)

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.⁴) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.

² The implementing regulations, however, were effective January 2, 1998.

³ Only the designated achievement and primary language tests enacted by Statutes of 1997, chapter 828 are reimbursable, pursuant to these parameters and guidelines.

⁴ Cal. Code Regs., tit. 5, §§ 860 and 873 were repealed effective December 16, 1999.

- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.⁵)

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.⁶)

C. Pretest and Posttest Coordination (*Reimbursement period begins January 2, 1998*)

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), and 881, subd. (a).)
- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), and 881, subd. (b).)
- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),⁷ and 882, subd. (c).)
- Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, and 899.)
 - From January 2, 1998 through December 31, 2000, the STAR program district coordinator shall be available through June 30 to complete school district testing.
 - Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.
- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, and 899.)
 - From January 2, 1998 through December 31, 2000, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through June 30 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
 - Beginning January 1, 2001, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

⁵ Cal. Code Regs., tit. 5, §§ 856, 869, and 871 were repealed effective December 16, 1999.

⁶ Cal. Code Regs., tit. 5, § 856 was repealed effective December 16, 1999.

⁷ Cal. Code Regs., tit. 5, § 853, subd. (c), was formerly § 852, subd. (b).

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, and 896, subd. (a).)
- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), and 895, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, and 899.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), and 886.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)

D Test Administration (*Reimbursement period begins January 2, 1998*)

- Conducting and monitoring the STAR Program designated achievement and primary language tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, and 884.)
- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

E. Reporting and Record Keeping (*Reimbursement period begins January 2, 1998*)

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 863 and 892.)
- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 and 893.)
- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 and 891.)
- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 and 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

V. CLAIM PREPARATION AND SUBMISSION

Each claim for reimbursement pursuant to this mandate must be timely filed and identify each of the following cost elements to each reimbursable activity identified in Section IV of this document.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant shall be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.

IX. PARAMETERS AND GUIDELINES AMENDMENTS

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2

governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. SUPPORTING DATA

A. Source Documents

For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of the validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

B. Record Keeping

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended.* See the State Controller's claiming instructions regarding retention of required documentation during the audit period.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

Specifically, reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, shall be offset by funding provided in the State Budget for the STAR Program.

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 350, Sacramento, California 95814.

February 4, 2002, I served the:

Adopted Parameters and Guidelines

Standardized Testing and Reporting, 97-TC-23

Education Code Sections 60607, et al

Statutes of 1997, Chapter 828

Title 5, California Code of Regulations, Sections 850-874

by placing a true copy thereof in an envelope addressed to:

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

Mr. Glen Haas, Bureau Chief
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 4, 2002, at Sacramento, California.


VICTORIA SORIANO

Commission on State Mandates

List Date: 04/10/1998

Mailing Information Parameters & Guidelines

Mailing List

Claim Number

97-TC-23

Claimant

Claim of San Diego Unified School District

Subject

Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

Ms. Harmeet Barkschat,
Mandate Resource Services

5325 Elkhorn Blvd. #307
Sacramento CA 95842

Tel: (916) 727-1350

FAX: (916) 727-1734

Interested Person

Dr. Carol Berg,
Education Mandated Cost Network

1121 L Street Suite 1060
Sacramento CA 95814

Tel: (916) 446-7517

FAX: (916) 446-2011

Interested Person

Mr. Allan Burdick,
MAXIMUS

4320 Auburn Blvd., Suite 2000
Sacramento CA 95841

Tel: (916) 485-8102

FAX: (916) 485-0111

Interested Person

Mr. William A. Doyle, Mandated Cost Administrator
San Jose Unified School District

1153 El Prado Drive
San Jose CA 95120

Tel: (408) 997-2500

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Interested Person

Ms. Susan Geanacou, Senior Staff Attorney
Department of Finance

915 L Street, 11th Floor Suite 1190
Sacramento CA 95814

Tel: (916) 445-3274

FAX: (916) 327-0220

State Agency

Subject

Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

Mr. Glenn Haas, Bureau Chief (B-8)

State Controller's Office

Division of Accounting & Reporting

3301 C Street Suite 500

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State Agency

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8316 Red Oak Street Suite 101

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Rancho Cucamonga CA 91730

FAX: (916) 944-8657

Interested Person

Ms. Tom Lutzenberger, Principal Analyst (A-15)

Department of Finance

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Tel: (916) 445-8913

Sacramento CA 95814

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State Agency

Mr. Wayne Martin, Director of Fiscal Services

Stockton Unified School District

401 North Madison Street

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Stockton CA 95202-1687

FAX: (209) 953-4477

Interested Person

Ms. Laurie McVay,

MAXIMUS

4320 Auburn Blvd. Suite 2000

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Sacramento CA 95841

FAX: (916) 485-0111

Interested Person

Mr. Paul Minney,

Spector, Middleton, Young & Minney, LLP

7 Park Center Drive

Tel: (916) 646-1400

Sacramento CA 95825

FAX: (916) 646-1300

Interested Person

Subject

Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

Mr. John B. Mockler, Executive Director (E-8)
State Board of Education

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Sacramento CA 95814

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Mr. Joseph D. Mullender, Jr.,
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Interested Person

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Loeb & Loeb

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Interested Person

Mr. Andy Nichols, Senior Manager
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Interested Person

Mr. Arthur Palkowitz, Legislative Mandates Specialist
San Diego Unified School District

4100 Normal Street Room 2148
San Diego CA 92103

Tel: (619) 725-7565
FAX: (619) 725-7569

Claimant

Mr. Keith E. Petersen, President
Sixten & Associates

5252 Palboa Avenue Suite 807
San Diego CA 92117

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FAX: (858) 514-8645

Interested Person

Subject

Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

Ms. Sandy Reynolds, President
Reynolds Consulting Group, Inc.

P.O. Box 987
Sun City CA 92586

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Interested Person

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Department of Education

School Fiscal Services

560 J Street Suite 150

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State Agency

Mr. Steve Shields,
Shields Consulting Group, Inc.

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Interested Person

Mr. Steve Smith, CEO

Mandated Cost Systems, Inc.

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Interested Person

Mr. Jim Spano,

State Controller's Office

Division of Audits (B-8)

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Sacramento CA 95814

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State Agency

COMMISSION ON STATE MANDATES

NOTICE AND AGENDA ¹

State Capitol, Room 126
Sacramento, California

October 24, 2002

9:30 A.M. - PUBLIC SESSION

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES

Item 1 September 26, 2002

III. PROPOSED CONSENT CALENDAR (action)

Note: If there are no objections to any of the following action items designated by an asterisk, the Executive Director will include it on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.

IV. HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

Note: Witnesses will be sworn in en masse before consideration of Items 2-7.

A. TEST CLAIMS

Item 2 *Charter Schools II*, 99-TC-03
Los Angeles County Office of Education and
San Diego Unified School District, Claimants
Education Code Sections 47602, 47604, 47605, 47605.5, 47607, 47613
(formerly 47613.7), 47613.5, and 47614
Statutes 1998, Chapters 34 and 673 (AB 544 and AB 2417)
California Code of Regulations, Title 5, Sections 15410-15428
California Department of Education Memorandum dated April 28, 1999

Item 3 *Redevelopment Agencies – Tax Disbursement Reporting*, 99-TC-06
County of Los Angeles, Claimant
Health & Safety Code Sections 33672.7
Statutes 1998, Chapter 39 (SB 258)

¹ This public meeting notice is available on the Internet at <http://www.csm.ca.gov>.

B. PROPOSED STATEMENTS OF DECISION – TEST CLAIMS

- Item 4* *Sexual Assault Education Program*, 99-TC-12
Los Angeles Community College District, Claimant
Education Code Sections 67385, 67390, and 67391
Statutes 1987, Resolution Chapter 105 (ACR 46)
Statutes 1990, Chapter 423 (AB 3098)
Statutes 1991, Chapter 1068 (AB 365)
Statutes 1995, Chapter 758 (AB 446)
- Item 5* *AIDS Prevention Instruction II*, 99-TC-07, 00-TC-01
Sweetwater Union High School District, Claimant
Education Code Section 51201.5, 51553, and 51554
Statutes 1998, Chapter 403 (SB 1110)
Statutes 1999, Chapter 234 (AB 246)
- Item 6* *Attendance Accounting and Audit Procedures*, 98-TC-26, 01-TC-04
San Luis Obispo County Office of Education,
Campbell Union High School District, and
Grant Joint Union High School District, Co-claimants
Education Code Sections 2550.3, 2550.4, 41344, 42238.7, and 48216
Statutes 1997, Chapter 855 (SB 727)
Statutes 1998, Chapter 846 (SB 1468)
Statutes 1999, Chapters 50 and 78 (SB 160 and AB 1115)
Statutes 2000, Chapters 52 and 1058 (AB 1740 and AB 2097)
Statutes 2001, Chapter 106 (SB 739)
- Item 7* *School District Reorganization*, 98-TC-24
Campbell Union High School District, and
San Luis Obispo County Office of Education, Co-claimants
Education Code Sections 35704, 35705.5, 35706, 35707, 35735, 35735.1,
35751, 35753, and 42127.6
Statutes 1976, Chapter 1010 (AB 3100)
Statutes 1980, Chapter 1192 (AB 3018)
Statutes 1994, Chapter 1186 (SB 1537)
Statutes 1998, Chapter 906 (SB 2328)
California Code of Regulations Title 5, Section 18573

V. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. STATEWIDE COST ESTIMATES

- Item 8* *County Office of Education Fiscal Accountability Reporting, 97-TC-20*
Alameda County Office of Education, Claimant
Education Code Sections 1240, subdivision (j), 1240.2, 1620, 1622, 1625, 1628, and 1630
Statutes 1987, Chapters 917 and 1452 (AB 93 and SB 998)
Statutes 1988, Chapters 1461 and 1462 (AB 3403 and SB 1677)
Statutes 1990, Chapter 1372 (SB 1854)
Statutes 1991, Chapter 1213 (AB 1200)
Statutes 1992, Chapter 323 (AB 2506)
Statutes 1993, Chapters 923 and 924 (AB 2185 and AB 1708)
Statutes 1994, Chapters 650 and 1002 (AB 3141 and AB 3627)
Statutes 1995, Chapter 525 (AB 438)
- Item 9* *Standardized Testing and Reporting, 97-TC-23*
San Diego Unified School District, Claimant
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes 1997, Chapter 828 (SB 376)
Title 5, California Code of Regulations, Sections 850-874
- Item 10* *Photographic Record of Evidence, 98-TC-07*
City of Los Angeles Police Department, Claimant
Penal Code Section 1417.3
Statutes 1985, Chapter 875 ()
Statutes 1986, Chapter 734 (AB 2715)
Statutes 1990, Chapter 382 (AB 3408)
- Item 11* *Animal Adoption, 98-TC-11*
County of Los Angeles, City of Lindsay, County of Tulare, County of Fresno and Southeast Area Animal Control Authority, Claimants
Civil Code Sections 1834, 1846; Food and Agriculture Code Sections 31108, 31752, 31752.5, 31753, 32001, and 32003;
Statutes 1998, Chapter 752 (SB 1785)

VI. EXECUTIVE DIRECTOR'S REPORT (info)

Item 12 Workload, Legislation, Next Agenda

VII. PUBLIC COMMENT

VIII. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526. (Closed Executive Session may begin at this time or may begin earlier on this day and reconvene at the end of the meeting.)

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento. CSM Case No. 01-L-04 [*Physical Performance Tests*]
2. *County of San Bernardino v. Commission on State Mandates of the State of California, et al.*, Case Number BS07309, in the Superior Court of the State of California, County of Los Angeles. CSM Case No. 01-L-10 [*Property Tax Administration*]
3. *City of San Diego v. Commission on State Mandates, et al.*, Case Number D039095 in the Appellate Court of the State of California, Fourth Appellate District, Division 1. CSM Case No. 01-L-15 [*Special Use; Eminent Domain*]
4. *County of San Diego v. Commission on State Mandates, et al.*, Case Number D039471, in the Appellate Court of the State of California, Fourth Appellate District, Division 1. CSM Case No. 01-L-16 [*San Diego MIA*]
5. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number B156870, in the Appellate Court of the State of California, Second Appellate District, CSM Case No. 01-L-17 [*Domestic Violence*]
6. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number B158835, in the Appellate Court of the State of California, Second Appellate District, CSM Case No. 01-L-18 [*SEMS*]
7. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Case Number 02CS00994, in the Superior Court of the State of California, County of Sacramento. CSM Case No. 02-L-01 [*School Bus Safety II*].
8. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number S109125, in the Supreme Court of the State of California. CSM Case No. 02-L-02 [*Pupil Expulsions*]

9. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number S109219, in the Supreme Court of the State of California. CSM Case No. 02-L-03 [*School Site Councils*]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

IX. REPORT FROM CLOSED EXECUTIVE SESSION

ADJOURNMENT

For information, contact:

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
(916) 445-0278 Fax

Item 9

Proposed Statewide Cost Estimate

Education Code Sections 60607, Subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes 1997, Chapter 828
California Code of Regulations, Title 5, Sections 850-904¹

Standardized Testing and Reporting

Executive Summary

The test claim legislation established the Standardized Testing and Reporting (STAR) program that requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts are also required to engage in numerous activities related to test administration and reporting.

The San Diego Unified School District filed the test claim on March 23, 1998. The Commission adopted the Statement of Decision on August 24, 2000, and the Parameters and Guidelines on January 24, 2002. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 6, 2002. The SCO provided the unaudited actual claim totals to the Commission on September 3 and October 10, 2002.

Methodology

To arrive at the total statewide cost estimate:

- Staff used unaudited actual claims filed with the SCO for prior fiscal years (FY)² by eligible claimants.³
- Staff projected totals for FY 2002-03 by multiplying the FY 2001-02 claim total filed by claimants with the SCO times the implicit price deflator for 2002-03 (2.2%), as forecasted by the Department of Finance. Staff projected totals for FY 2003-04 by multiplying the 2002-03 estimate by the implicit price deflator for 2003-04 (3.2%).

¹ The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

² Includes seven fiscal years: 1997-98 through 2003-04.

³ SCO data as of October 10, 2002.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal year	# Claims Filed With SCO	Claim Totals
1997-98	357	\$ 12,646,442
1998-99	390	\$ 15,237,871
1999-00	656	\$ 33,108,745
2000-01	686	\$ 30,365,255
2001-02	680	\$ 30,154,499
2002-03 (2.2% ⁴)	n/a	\$ 30,817,898
2003-04 (3.2% ⁵)	n/a	\$ 31,804,071
Total		\$184,134,781
Statewide Cost Estimate Total (Rounded)		\$ 184,135,000

Because the reported costs are prior to audit and partially based on estimates, the statewide cost estimate of \$184,134,781 has been rounded to \$184,135,000.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$184,135,000 for costs incurred in complying with *Standardized Testing and Reporting* provisions.

⁴ Implicit Price Deflator as forecast by Department of Finance.

⁵ *Ibid.*

Proposed Statewide Cost Estimate

Education Code Sections 60607, Subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes 1997, Chapter 828
California Code of Regulations, Title 5, Sections 850-904⁶

Standardized Testing and Reporting

Mandated Program

The test claim legislation established the Standardized Testing and Reporting (STAR) Program that requires school districts to administer achievement testing to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The San Diego Unified School District filed the test claim on March 23, 1998. The Commission adopted the Statement of Decision on August 24, 2000, and the Parameters and Guidelines on January 24, 2002. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 6, 2002. The SCO provided the unaudited actual claim totals to the Commission on September 3 and October 10, 2002.

Period of Reimbursement

Statutes 1997, chapter 828, was an urgency statute effective on October 10, 1997.⁷ Therefore, costs incurred on or after October 10, 1997 for compliance with the mandate are reimbursable, unless otherwise specified.

Eligible Claimants

Any "school district," as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

⁶ The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

⁷ The implementing regulations, however, were effective January 2, 1998.

Reimbursable Activities

For each eligible claimant, the following activities to administer the designated achievement and primary language tests are eligible for reimbursement:⁸

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site)
- Developing internal policies, procedures, and forms to implement Standardized Testing and Reporting. (One-time activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

B. Test Materials, Supplies, and Equipment (Reimbursement period: January 2, 1998 – December 15, 1999)

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.⁹) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.
- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.¹⁰)

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.¹¹)

C. Pretest and Posttest Coordination (Reimbursement period begins January 2, 1998)

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), and 881, subd. (a).)
- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code,

⁸ Only the designated achievement and primary language tests enacted by Statutes 1997, chapter 828 are reimbursable, pursuant to these parameters and guidelines.

⁹ Cal. Code Regs., tit. 5, §§ 860 and 873 were repealed effective December 16, 1999.

¹⁰ Cal. Code Regs., tit. 5, §§ 856, 869, and 871 were repealed effective December 16, 1999.

¹¹ Cal. Code Regs., tit. 5, § 856 was repealed effective December 16, 1999.

§ 60640, subds. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), and 881, subd. (b).)

- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),¹² and 882, subd. (c).)
- Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, and 899.)
- From January 2, 1998 through December 31, 2000, the STAR program district coordinator shall be available through June 30 to complete school district testing.
- Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.
- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, and 899.)
- From January 2, 1998 through December 31, 2000, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through June 30 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
- Beginning January 1, 2001, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, and 896, subd. (a).)

¹² Cal. Code Regs., tit. 5, § 853, subd. (c), was formerly § 852, subd. (b).

- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), and 895, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, and 899.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), and 886.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)

- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)

D. Test Administration (Reimbursement period begins January 2, 1998)

- Conducting and monitoring the STAR Program designated achievement and primary language tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, and 884.)
- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)
- Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

E. Reporting and Record Keeping (Reimbursement period begins January 2, 1998)

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 863 and 892.)
- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a district wide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 and 893.)
- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 and 891.)
- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 and 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

Assumptions

Staff made the following assumptions:

- The claiming data is accurate, although unaudited.
- There may be late or amended claims filed. However, if actual claims exceed the statewide cost estimate, the SCO will report the deficiency to the Legislature for inclusion in the next year's claims bill.

Methodology

To arrive at the total statewide cost estimate:

- Staff used unaudited actual claims filed with the SCO for prior fiscal years (FY)¹³ by eligible claimants.¹⁴
- Staff projected totals for FY 2002-03 by multiplying the FY 2001-02 claim total filed by claimants with the SCO times the implicit price deflator for 2002-03 (2.2%), as forecasted by the Department of Finance. Staff projected totals for FY 2003-04 by multiplying the 2002-03 estimate by the implicit price deflator for 2003-04 (3.2%).

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$184,135,000 for costs incurred in complying with *Standardized Testing and Reporting* provisions.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal year	# Claims Filed With SCO	Claim Totals
1997-98	357	\$ 12,646,442
1998-99	390	\$ 15,237,871
1999-00	656	\$ 33,108,745
2000-01	686	\$ 30,365,255
2001-02	680	\$ 30,154,499
2002-03 (2.2% ¹⁵)	n/a	\$ 30,817,898
2003-04 (3.2% ¹⁶)	n/a	\$ 31,804,071
Total		\$184,134,781
Statewide Cost Estimate Total (Rounded)		\$ 184,135,000

Because the reported costs are prior to audit and partially based on estimates, the statewide cost estimate of \$184,134,781 has been rounded to \$184,135,000.

¹³ Includes seven fiscal years: 1997-98 through 2003-04.

¹⁴ SCO data as of October 10, 2002.

¹⁵ Implicit Price Deflator as forecast by Department of Finance.

¹⁶ *Ibid.*

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COMMISSION ON STATE MANDATES

PUBLIC HEARING

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STATE CAPITOL, ROOM 447

SACRAMENTO, CALIFORNIA

THURSDAY, OCTOBER 24, 2002

9:40 A.M.

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ORIGINAL

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APPEARANCES

COMMISSION MEMBERS:

ANNETTE PORINI, Chairperson

Representative of B. Timothy Gage, Director
State Department of Finance

WILLIAM SHERWOOD, Vice Chairperson

Representative of Philip Angelides
State Treasurer

SHERRY WILLIAMS

Representative of Tal Finney
Interim Director, Office of Planning &
Research

WALTER BARNES

Representative of Kathleen Connell
State Controller

JOHN S. LAZAR

City Council Member
Turlock City Council

COMMISSION STAFF:

PAULA HIGASHI, Executive Director

CAMILLE SHELTON, Senior Commission Counsel

KATHERINE TOKARSKI, Staff Counsel

NANCY PATTON, Staff Services Manager

ERIC FELLER, Staff Counsel

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1 court reporting firm. And I just want to indicate
2 that so everyone could speak very clear and into
3 their microphones. The meeting is not being taped,.

4 CHAIRPERSON PORINI: So that's a good
5 admonition to any of the claimants who come forward,
6 or any folks who come forward to testify that you'll
7 need to speak clearly and provide business cards for
8 the spelling of your name.

9 Item 1, the minutes for the September
10 meeting.

11 Questions, corrections, changes? Motion?

12 MS. WILLIAMS: Motion to adopt.

13 MR. LAZAR: I second.

14 CHAIRPERSON PORINI: We have a motion by
15 Ms. Williams and a second by Mr. Lazar. All in
16 favor indicate with aye.

17 MR. SHERWOOD: Aye.

18 MS. WILLIAMS: Aye.

19 MR. BARNES: Aye.

20 MR. LAZAR: Aye.

21 CHAIRPERSON PORINI: Aye. The minutes
22 have been adopted.

23 MS. HIGASHI: Next on your agenda is the
24 proposed consent calendar, and the proposed consent
25 calendar statement of decision, items 4, 5, 6 and

1 7. And statewide cost estimates items 8 and 10 gave
2 you procedures to vote on this. I'd like to ask
3 Commission counsel Mr. Feller to read a correction
4 into the record regarding the statement of decision
5 for item 5.

6 MR. FELLER: The Department of Finance
7 pointed out a couple of minor errors in the
8 statement of decision. On page 7 of item 5, the
9 last paragraph before the bullet, the bottom of the
10 page reads, "DOF argues that the following
11 activities related to the AIDS prevention
12 instructional requirements," should say, "are not
13 reimbursable mandates."

14 And likewise, on page 8, the first full
15 paragraph, the first sentence reads, "DOF also
16 argues that providing courses that are factual and
17 medically accurate as defined in section 51553,
18 subdivision (b), subparagraph (1)," should
19 read, "not a reimbursable mandate."

20 CHAIRPERSON PORINI: Thank you. So we
21 have the consent calendar before us that consists of
22 items 4, 5, 6, 7, 8 and 10. Any questions or
23 comments from members? Do I have a motion to adopt
24 the consent calendar?

25 MS. WILLIAMS: Motion to adopt the consent

1 calendar.

2 MR. SHERWOOD: Second.

3 CHAIRPERSON PORINI: I have a motion by
4 Ms. Williams and a second by Mr. Sherwood to adopt
5 the consent calendar. All in favor say aye.

6 MR. SHERWOOD: Aye.

7 MS. WILLIAMS: Aye.

8 MR. BARNES: Aye.

9 MR. LAZAR: Aye.

10 CHAIRPERSON PORINI: Aye. All opposed?
11 That item carries.

12 That takes us to our first test claim.

13 MS. HIGASHI: We're now at the hearing
14 this morning, two test claims, items 2 and 3. As is
15 customary, there will be witnesses. And will the
16 parties please stand for the swearing in.

17 MS. HIGASHI: Do you solemnly swear or
18 affirm that the testimony which you're about to give
19 is true and correct based upon your personal
20 knowledge, information and belief?

21 THE WITNESSES: I do.

22 CHAIRPERSON PORINI: Thank you. Item 2,
23 the test claim on Charter Schools will be presented
24 by Commission counsel Katherine Tokarski.

25 MS. TOKARSKI: Good morning. Claimants,

1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA)
) ss.

3 COUNTY OF SACRAMENTO)

4 I, JAMIE LYNNE OELRICHS, a Certified
5 Shorthand Reporter, licensed by the state of
6 California and empowered to administer oaths and
7 affirmations pursuant to Section 2093 (b) of the
8 Code of Civil Procedure, do hereby certify:

9 That the said proceedings were recorded
10 stenographically by me and were thereafter
11 transcribed under my direction via computer-assisted
12 transcription.

13 That the foregoing transcript is a true
14 record of the proceedings which then and there took
15 place.

16 That I am a disinterested person to said
17 action.

18 IN WITNESS WHEREOF, I have subscribed my
19 name on November 5, 2002.

20 _____
21 Jamie Lynne Oelrichs

22 Certified Shorthand Reporter No. 8086
23
24
25

MINUTES

COMMISSION ON STATE MANDATES

State Capitol, Room 447
Sacramento, California
October 24, 2002

Present: Chairperson Annette Porini
Representative of the Director of the Department of Finance
Member William Sherwood
Representative of the State Treasurer
Member Sherry Williams
Representative of the Director of the Office of Planning and Research
Member Walter Barnes
Representative of the State Controller
Member John Lazar
City Council Member

Vacant: Local Elected Official
Public Member

CALL TO ORDER AND ROLL CALL

Chairperson Porini called the meeting to order at 9:40 a.m.

APPROVAL OF MINUTES

Item 1 September 26, 2002

Upon motion by Member Williams and second by Member Lazar, the minutes were unanimously adopted.

PROPOSED CONSENT CALENDAR

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS,
TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

PROPOSED STATEMENTS OF DECISION - TEST CLAIMS

- Item 4 *Sexual Assault Education Program*, 99-TC-12
Los Angeles Community College District, Claimant
Education Code Sections 67385, 67390, and 67391
Statutes 1987, Resolution Chapter 105 (ACR 46)
Statutes 1990, Chapter 423 (AB 3098)
Statutes 1991, Chapter 1068 (AB 365)
Statutes 1995, Chapter 758 (AB 446)
- Item 5 *AIDS Prevention Instruction II*, 99-TC-07, 00-TC-01
Sweetwater Union High School District, Claimant
Education Code Sections 51201.5, 51553, and 51554
Statutes 1998, Chapter 403 (SB 1110)
Statutes 1999, Chapter 234 (AB 246)

- Item 6 *Attendance Accounting and Audit Procedures*, 98-TC-26, 01-TC-04
San Luis Obispo County Office of Education,
Campbell Union High School District, and
Grant Joint Union High School District, Co-claimants
Education Code Sections 2550.3, 2550.4, 41344, 42238.7, and 48216
Statutes 1997, Chapter 855 (SB 727)
Statutes 1998, Chapter 846 (SB 1468)
Statutes 1999, Chapters 50 and 78 (SB 160 and AB 1115)
Statutes 2000, Chapters 52 and 1058 (AB 1740 and AB 2097)
Statutes 2001, Chapter 106 (SB 739)
- Item 7 *School District Reorganization*, 98-TC-24
Campbell Union High School District, and
San Luis Obispo County Office of Education, Co-claimants
Education Code Sections 35704, 35705.5, 35706, 35707, 35735, 35735.1,
35751, 35753, and 42127.6
Statutes 1976, Chapter 1010 (AB 3100)
Statutes 1980, Chapter 1192 (AB 3018)
Statutes 1994, Chapter 1186 (SB 1537)
Statutes 1998, Chapter 906 (SB 2328)
California Code of Regulations, Title 5, Section 18573

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS,
TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

PROPOSED STATEWIDE COST ESTIMATES

- Item 8 *County Office of Education Fiscal Accountability Reporting*, 97-TC-20
Alameda County Office of Education, Claimant
Education Code Sections 1240, subdivision (j), 1240.2, 1620, 1622, 1625,
1628, and 1630
Statutes 1987, Chapters 917 and 1452 (AB 93 and SB 998)
Statutes 1988, Chapters 1461 and 1462 (AB 3403 and SB 1677)
Statutes 1990, Chapter 1372 (SB 1854)
Statutes 1991, Chapter 1213 (AB 1200)
Statutes 1992, Chapter 323 (AB 2506)
Statutes 1993, Chapters 923 and 924 (AB 2185 and AB 1708)
Statutes 1994, Chapters 650 and 1002 (AB 3141 and AB 3627)
Statutes 1995, Chapter 525 (AB 438)
- Item 10 *Photographic Record of Evidence*, 98-TC-07
City of Los Angeles Police Department, Claimant
Penal Code Section 1417.3
Statutes 1985, Chapter 875 (AB 556)
Statutes 1986, Chapter 734 (AB 2715)
Statutes 1990, Chapter 382 (AB 3408)
Statutes 1992, Chapter 323 (AB 2506)
Statutes 1993, Chapters 923 and 924 (AB 2185 and AB 1708)
Statutes 1994, Chapters 650 and 1002 (AB 3141 and AB 3627)
Statutes 1995, Chapter 525 (AB 438)

Member Williams moved for adoption of the consent calendar, which consisted of items 4 – 8 and 10. Eric Feller, Commission Counsel, noted two corrections pointed out by the Department of Finance regarding the proposed statement of decision for item 5. With a second by Member Sherwood, the consent calendar was unanimously adopted.

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7

TEST CLAIMS

- Item 2 *Charter Schools II*, 99-TC-03 Los Angeles County Office of Education and San Diego Unified School District, Claimants Education Code Sections 47602, 47604, 47605, 47605.5, 47607, 47613 (formerly 47613.7), 47613.5, and 47614, Statutes 1998, Chapters 34 and 673 (AB 544 and AB 2417) California Code of Regulations, Title 5, Sections 15410-15428 California Department of Education Memorandum dated April 28, 1999

Katherine Tokarski, Commission Counsel, presented this item. She stated that the claimants submitted a test claim alleging a reimbursable state mandate for county offices of education and school districts to provide supervisory oversight and reporting services to charter schools and various other activities related to the establishment and fiscal management of charter schools. She noted that on May 26, 1994, the Commission heard and decided a related test claim entitled *Charter Schools* (CSM-4437), in which the Commission found that the test claim legislation imposed a reimbursable state-mandated program upon school districts for new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters.

Ms. Tokarski indicated that in its comments dated July 28, 2000, the Department of Finance agreed in part with the claimants that Education Code section 47605, subdivision (k), 47605.5, and 47607 include new activities or higher levels of service that are subject to reimbursement. However, the Department of Finance argued that some of the claimed activities were discretionary or permissive, and were not new. The Department of Finance also argued that fee authority was given for the district to charge the charter school for expenses of supervisory oversight, and that other offsetting savings were established as part of the test claim legislation.

Staff concluded that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614 contain new programs or higher levels of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514. Therefore, staff recommended that the Commission adopt the final staff analysis, which partially approves the claim, for the specified new activities.

Parties were represented as follows: Art Palkowitz and Brian Bennett, representing the San Diego Unified School District; Gayle Windom, representing the Los Angeles County Office of Education; and Susan Geanacou, Dan Troy, and Heather Carlson, for the Department of Finance.

Mr. Palkowitz noted that the San Diego Unified School District consented to the staff analysis.

Ms. Geanacou submitted that the Department of Finance essentially agreed with the staff analysis. However, regarding the recommended finding as to Education Code section 47607, she questioned what activities were asserted to be a new program or higher level of service. She agreed that providing notification to the charter school of any violation would constitute a new program or higher level of service, but disputed the assertion that giving the reasonable

opportunity to cure the violation is new because it is already within the reimbursable activities under the existing *Charter Schools* Parameters and Guidelines.

Ms. Tokarski explained that Education Code section 47607 was part of the original *Charter Schools* test claim. She noted that subdivisions (a) and (b) were found to impose a reimbursable state-mandate when the test claim was brought forward, and thus, were incorporated into the existing parameters and guidelines. Subdivision (c), as a result of Statutes 1998, is entirely new and would be incorporated into the parameters and guidelines as an amendment to clarify that notifying the charter school of a violation and giving them reasonable opportunity to cure is a higher level of service over the original activity of supervision of the charter school by school districts or county offices of education.

Ms. Geanacou stated her concern that there should be more discussion as to what the asserted new activities are prior to a statement of decision being adopted.

Mr. Bennett commented that the district was extremely conscious of the amount of work it takes to respond to a complaint and to appropriately notify the charter holder to engage in a process of investigation and review relative to the allegations. He added that the new charter law created an additional task more narrowly focused in language because it narrowed the parameters to a five-fact situation that must be investigated. He also added that actual on-site presence may involve document review and extensive review of past practice or what the charter school claimed, which was a higher degree of work than what was previously required.

Member Lazar made a motion to adopt the staff analysis. With a second by Member Barnes, the motion carried unanimously.

Item 3 *Redevelopment Agencies - Tax Disbursement Reporting*, 99-TC-06
County of Los Angeles, Claimant
Health & Safety Code Section 33672.7
Statutes 1998, Chapter 39 (SB 258)

Katherine Tokarski, Commission Counsel, presented this item. She stated that the claimant submitted a test claim alleging a reimbursable state mandate for counties to participate in the tax disbursement reporting associated with community redevelopment agencies. She noted that the claim arose from the enactment of Health and Safety Code section 33672.7 (Stats. 1998, ch. 39), which requires the county auditor to prepare annual tax disbursement statements for community redevelopment agency project areas. Ms. Tokarski explained that prior law required that the auditor prepare such a statement only upon the request of a redevelopment agency and allowed the county to charge the agency for the report. However, the enactment of Health and Safety Code section 33672.7 created new reporting requirements in that an annual statement must now be prepared for every community redevelopment agency project, regardless of whether one was requested.

Ms. Tokarski noted the Department of Finance's statement that the alleged complex accounting and allocation tasks were already required by existing law prior to the enactment of the test claim legislation. She maintained that Health and Safety Code section 33672.7 requires that the county auditor report tax disbursements to redevelopment agencies made pursuant to other code sections on an annual basis. However, she asserted that only *the reporting* of those disbursements is a new activity. Staff concluded that other Health and Safety Code sections already require the calculation and disbursement of tax revenues to redevelopment agencies, and therefore, the actual process of allocating and disbursing tax revenues to redevelopment agencies was not new to the test claim statute.

Staff recommended that the Commission adopt the final staff analysis, which approves the test claim for the specified activity.

Parties were represented as follows: Leonard Kaye, representing the County of Los Angeles; and Susan Geanacou and Matt Paulin, for the Department of Finance.

Mr. Kaye concurred with the staff analysis and noted what would be reimbursable according to staff's analysis.

Ms. Geanacou commented that the Department of Finance also essentially agreed with the staff analysis. However, she noted two points. First, for purposes of the proposed statement of decision, she clarified the date that the Department of Finance actually filed its comments in response to the test claim. Second, she reiterated Finance's belief that most potential claimants' costs would be below the \$200 claiming threshold if this program were found to be a mandate.

Member Barnes requested clarification from Mr. Kaye as to what exactly he supported in staff's recommendation. Mr. Kaye provided clarification, reading staff's conclusion into the record. Member Barnes expressed concern regarding the other statutes mentioned. Ms. Tokarski maintained that the test claim alleges Health and Safety Code section 33672.7 and not the other code sections referred to in the text of Health and Safety Code section 33672.7. Therefore, the only reimbursable activity here was the taking of the information and putting it into the report. Mr. Kaye confirmed.

Member Williams made a motion to adopt the staff analysis. With a second by Member Lazar, the motion carried unanimously.

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

STATEWIDE COST ESTIMATES

- Item 9 *Standardized Testing and Reporting*, 97-TC-23
San Diego Unified School District, Claimant
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630,
60640, 60641, and 60643
Statutes 1997, Chapter 828 (SB 376)
California Code of Regulations, Title 5, Sections 850-874

Nancy Patton, Staff Services Manager, presented this item. She noted that the *Standardized Testing and Reporting (STAR)* program requires school districts between March 15th and May 15th each year to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. She added that school districts were required to engage in numerous activities related to test administration and reporting.

Ms. Patton noted that the statement of decision for this program was adopted on August 24, 2000, and the parameters and guidelines on January 24, 2002. The deadline for claimants to submit reimbursement claims to the State Controller was August 6, 2002. She explained that Commission staff used the unaudited claims data to develop the proposed statewide cost estimate, which includes costs for seven fiscal years.

Staff recommended that the Commission adopt the proposed statewide cost estimate of \$184,135,000 for the *STAR* program.

Parties were represented as follows: Art Palkowitz, representing the San Diego City Schools; and

Michael Wilkening and Mohammed Wardak, for the Department of Finance.

Mr. Palkowitz agreed with the staff analysis.

Mr. Wardak stated that the Department of Finance would like to work with the claimants and Commission staff to determine what is included in the \$184,000,000 estimate, and resolve any concerns before action is taken.

Chairperson Porini asked if Finance had identified things that should or should not be included in the claims. Mr. Wardak indicated that one sample provided detailed information of purchased materials, including a \$500 scanner and academic and test preparation software. He added that Finance was not convinced that such items should have been included.

Mr. Wilkening commented that the Department of Finance has provided revenues in excess of \$100,000,000 for this program and they were perplexed as to why the estimate came back above and beyond that provided.

Member Sherwood asked Finance how much time they needed to review material. Mr. Wardak responded that they did not have an estimated time. Member Sherwood then asked what the impact would be if this item were put off for 30 days. Paula Higashi, Executive Director, stated that it would be scheduled for another agenda. Mr. Wilkening submitted that Finance would work with the Controller's Office to figure out what was in the claims and what was or was not valid. Ms. Higashi stated that the Controller's Office could give the Commission different numbers on which to base a proposed estimate. She noted that the Controller's Office has the authority to review the claims and reduce them if they're excessive or unreasonable; the Commission's duty is to adopt a statewide cost estimate.

Member Sherwood indicated that he would like to see numbers that were as accurate as possible and noted that he is always concerned whether there is doubt from either the claimant or the Department of Finance as to the correctness of the numbers. However, he maintained that he did not want Finance's review to slow down the process and unnecessarily have a negatively impact on the claimants.

Chairperson Porini asked the Members if it was acceptable to them that the Commission direct staff, the Department of Finance, and the Controller's Office to get together, work out a timeframe, and come back.

Member Barnes stated that it was acceptable, but provided clarification as to the ability of the Controller's Office to certify claims. Member Barnes explained that until the Controller's Office can actually get out and take a look at the material that supports the claims that they are able to determine whether or not something is specific or not. He clarified that if, in fact, something is found, it would be certified only to the extent that a reduction letter is issued. He stated that to a certain extent, it's really a comparison between what the claims say that are meeting the claiming instructions, versus the Commission's estimate of whether or not some of those claims contain items that are not allowed.

Mr. Allan Burdick asserted that there was a statutory scheme in which the Commission adopts a statement of decision. In order to stay within the statutory scheme, he argued that the Department of Finance should participate in the process if they are concerned about statewide cost estimates. He added that Finance should state when they would be coming back to the Commission, whether it be 30 or 60 days.

Chairperson Porini directed Finance to return in 60 days. Mr. Palkowitz requested clarification regarding this direction, which was provided by Chairperson Porini.

Item 11 *Animal Adoption*, 98-TC-11
County of Los Angeles, City of Lindsay, County of Tulare,
County of Fresno and Southeast Area Animal Control Authority, Claimants
Civil Code Sections 1834, 1846; Food and Agriculture Code Sections
31108, 31752, 31752.5, 31753, 32001, and 32003
Statutes 1998, Chapter 752 (SB 1785)

Nancy Patton, Staff Services Manager, presented this item. She noted that the *Animal Adoption* program imposed numerous requirements upon local agencies regarding stray and abandoned animals, including an increased holding period for stray and abandoned dogs, cats, and other specified animals, and a requirement that impounded animals receive necessary and prompt veterinary care.

Ms. Patton noted that the statement of decision for this program was adopted on January 25, 2001, and the parameters and guidelines on February 28, 2002. The deadline for claimants to submit reimbursement claims to the State Controller was September 4, 2002. She explained that Commission staff used the unaudited claims data to develop the proposed statewide cost estimate, which includes costs for six fiscal years.

Staff recommended that the Commission adopt the proposed statewide cost estimate of \$78,886,000 for the *Animal Adoption* program.

Parties were represented as follows: Pam Stone, representing the claimants; Leonard Kaye, representing the County of Los Angeles; Bob Ballenger, with the Los Angeles County Department of Animal Care and Control; and Susan Geanacou and Tom Lutzenburger, for the Department of Finance.

Mr. Kaye urged the Commission to adopt the proposed statewide cost estimate, noting that it was based upon properly filed documents. He added that the amounts were prepared and taken from documents according to the Commission's practice for the last five or six years. Regarding the interested person late filing, he noted that the comments were not prepared under penalty of perjury and were not filed with a proof of service.

Ms. Stone requested that the late filing submitted be stricken from the record, as it did not comply with the Commission's regulations. She asked that the Commission adopt the proposed statewide cost estimate.

Chairperson Porini asked Camille Shelton, acting Chief Legal Counsel, to comment on striking the late filing. Ms. Shelton agreed that the late filing submitted by Ms. Lois Newman did not strictly comply with the Commission's regulations. However, she explained that the Commission is required to accept any public comments under Bagley-Keene prior to a hearing, and thus, the filing can simply be considered public comment.

Ms. Geanacou maintained that the Department of Finance was not in a position to support or refute the proposed statewide cost estimate. Given some issues raised, she stated that they have not had the ability to review the claims. She suggested that the Commission consider holding this item and provide the same direction as that given for the *STAR* program.

Ms. Stone asserted that Member Barnes' statement in the previous item was that the State Controller's Office generally does not audit claims until an appropriation is made and that the claims are reviewed contemporaneously with payment. Therefore, she argued that the appropriate methodology was to adopt the proposed statewide cost estimate now, knowing that when an appropriation is made, the claim will be reviewed by the State Controller's Office. She

added that reductions would be made at such time that the State Controller believed any of the claimed estimates were not appropriately filed or not in compliance with the parameters and guidelines and claiming instructions.

Regarding the comments filed by Ms. Lois Newman, Mr. Kaye contended that she had no taxpayer or legal standing, and therefore, her comments should not hinder this process.

Member Lazar asked for Ms. Shelton's opinion. Ms. Shelton indicated that the Commission had options, including holding this item over as done in the *STAR* program. She noted that the Commission has not traditionally used the method of basing estimates on audited claims. She also agreed with Mr. Kaye that some of the interested person comments were outside the scope of the test claim.

Member Barnes clarified that in his previous statement, he was trying to differentiate between the audit process and the calculation of a cost estimate. He noted that the question of whether or not the Commission should do what it has always done in the past, which is to use the claims that are filed as the estimate, or whether or not it should take a closer look at those claims is the issue before the Commission. He maintained that since a lot of money was involved and time was not an issue, that the Commission should give the same direction here as that given for the *STAR* program.

Chairperson Porini stated that she was inclined to be consistent with the previous direction that this item come back before the Commission in 60 days. She expressed concern about Ms. Stone's comments regarding timing, but she noted that because this was subject to the budgetary process, that the money would not be appropriated until next July. Therefore, she believed that a 60-day delay would not cause a problem and could actually create a future consent calendar item.

Ms. Higashi noted that because of the holiday season, the Commission had the choice of hearing the items in less than 60 days for the December hearing, or more than 60 days for the January hearing. Mr. Lutzenburger stated that the Department of Finance could do it within whichever window is provided. Ms. Higashi clarified that the items will be set for the December 19, 2002 hearing.

EXECUTIVE DIRECTOR'S REPORT

Item 12 Workload, Legislation, Next Agenda

Ms. Higashi noted the following:

- *Workload.* There has been a large increase in the number of incorrect reduction claim filings based on the *Investment Reports* program. Staff is working on a pending amendment to the parameters and guidelines. A prehearing was scheduled to discuss the boilerplate language that the Bureau of State Audits asked the Commission to revise.
- *Legislation.* The budget trailer bills were enacted and some new requirements have been imposed. Staff is in the process of evaluating and scheduling implementation of those new activities.
- *Future Hearing Agendas.* The two statewide cost estimates discussed at this hearing will be added to the December agenda. Rulemaking adoption will either be on the November or December agenda, depending on staff's workload. The *Handicapped and Disabled Students* parameters and guidelines will be rescheduled when the additional filings are received.

PUBLIC COMMENT

Ms. Joann Steinmeier came forward as Chairperson Porini publicly thanked her for being a member of the Commission on State Mandates. Chairperson Porini read and presented her with a resolution. Ms. Steinmeier thanked the Commission and the entire staff.

Dr. Carol Berg, with the Education Mandated Cost Network, and Allan Burdick, with the California State Association of Counties, also thanked Ms. Steinmeier for her service and presented her with tokens of appreciation.

Mr. Burdick noted that a number of questions were being asked about the role of the Bureau of State Audits and its impact on the mandates process. He added that there were different opinions as to what their role was and how they actually relate to the Commission. Chairperson Porini stated that this would be a good subject for discussion as an informational item. She indicated that perhaps someone from the Joint Legislative Audit Committee, as well as the auditors, be invited to participate in some sort of discussion.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
CSM Case No. 01-L-04 [*Physical Performance Tests*]
2. *County of San Bernardino v. Commission on State Mandates of the State of California, et al.*, Case Number BS07309, in the Superior Court of the State of California, County of Los Angeles.
CSM Case No. 01-L-10 [*Property Tax Administration*]
3. *City of San Diego v. Commission on State Mandates, et al.*, Case Number D039095 in the Appellate Court of the State of California, Fourth Appellate District, Division 1. CSM Case No. 01-L-15 [*Special Use; Eminent Domain*]
4. *County of San Diego v. Commission on State Mandates, et al.*, Case Number D039471, in the Appellate Court of the State of California, Fourth Appellate District, Division 1. CSM Case No. 01-L-16 [*San Diego MIA*]
5. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number B156870, in the Appellate Court of the State of California, Second Appellate District. CSM Case No. 01-L-17 [*Domestic Violence*]
6. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number B158835, in the Appellate Court of the State of California, Second Appellate District. CSM Case No. 01-L-18 [*SEMS*]
7. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Case Number 02CS00994, in the Superior Court of the State of California, County of Sacramento. CSM Case No. 02-L-01 [*School Bus Safety II*].

8. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number S109125, in the Supreme Court of the State of California. CSM Case No. 02-L-02 [*Pupil Expulsions*]
9. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number S109219, in the Supreme Court of the State of California. CSM Case No. 02-L-03 [*School Site Councils*]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a), and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

Hearing no further comments, Chairperson Porini adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

REPORT FROM CLOSED EXECUTIVE SESSION

Chairperson Porini reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

ADJOURNMENT

Hearing no further business and upon motion by Member Sherwood and second by Member Williams, Chairperson Porini adjourned the meeting at 11:15 a.m.


PAULA HIGASHI
Executive Director

COMMISSION ON STATE MANDATES

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January 24, 2003

Mr. Art Palkowitz
Legislative Mandate Specialist
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4100 Normal Street, Room 3159
San Diego, CA 92103

State Agencies and Interested Parties (See Attached Mailing List)

Re: **Adopted Statewide Cost Estimate**
Standardized Testing and Reporting, 97-TC-23
Education Code Sections 60607, et al
Statutes 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz:

On January 23, 2003, the Commission on State Mandates adopted the statewide cost estimate of \$184,135,000 for the above named program. This amount will be included in our next Report to the Legislature.

Please call Julie Shelton at 916-323-5862 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Paula Higashi'.

PAULA HIGASHI
Executive Director

Attachment: Statewide Cost Estimate

j:\mandates\1997\97tc23\sce\sceadopttrans.doc

MAILED: 1/24/03
DATE: 1/24/03
CHRON: FILE
WORKING BINDER: INITIAL: VS

STANDARDIZED TESTING AND REPORTING

Statewide Cost Estimate

Adopted: January 23, 2003

Education Code Sections 60607, Subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643

Statutes 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-904¹

Mandate Background

The test claim legislation established the Standardized Testing and Reporting (STAR) Program that requires school districts to administer achievement testing to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The San Diego Unified School District filed the test claim on March 23, 1998. The Commission adopted the Statement of Decision on August 24, 2000, and the Parameters and Guidelines on January 24, 2002. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by August 6, 2002. The SCO provided the unaudited actual claim totals to the Commission on September 3 and October 10, 2002.

Eligible Claimants

Any "school district," as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

Period of Reimbursement

Statutes 1997, chapter 828, was an urgency statute effective on October 10, 1997.² Therefore, costs incurred on or after October 10, 1997 for compliance with the mandate are reimbursable, unless otherwise specified.

Reimbursable Activities

For each eligible claimant, the following activities to administer the designated achievement and primary language tests are eligible for reimbursement:³

¹ The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

² The implementing regulations, however, were effective January 2, 1998.

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site)
- Developing internal policies, procedures, and forms to implement Standardized Testing and Reporting. (One-time activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

B. Test Materials, Supplies, and Equipment (Reimbursement period: January 2, 1998 – December 15, 1999)

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.⁴) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.
- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.⁵)

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.⁶)

C. Pretest and Posttest Coordination (Reimbursement period begins January 2, 1998)

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), and 881, subd. (a).)
- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), and 881, subd. (b).)

³ Only the designated achievement and primary language tests enacted by Statutes 1997, chapter 828 are reimbursable, pursuant to these parameters and guidelines.

⁴ Cal. Code Regs., tit. 5, §§ 860 and 873 were repealed effective December 16, 1999.

⁵ Cal. Code Regs., tit. 5, §§ 856, 869, and 871 were repealed effective December 16, 1999.

⁶ Cal. Code Regs., tit. 5, § 856 was repealed effective December 16, 1999.

- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),⁷ and 882, subd. (c).)
- Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, and 899.)
- From January 2, 1998 through December 31, 2000, the STAR program district coordinator shall be available through June 30 to complete school district testing.
- Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.
- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, and 899.)
- From January 2, 1998 through December 31, 2000, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through June 30 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
- Beginning January 1, 2001, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, and 896, subd. (a).)
- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), and 895, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)

⁷ Cal. Code Regs., tit. 5, § 853, subd. (c), was formerly § 852, subd. (b).

- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, and 899.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), and 886.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)

D. Test Administration (Reimbursement period begins January 2, 1998)

- Conducting and monitoring the STAR Program designated achievement and primary language tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, and 884.)
- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)
- Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

E. Reporting and Record Keeping (Reimbursement period begins January 2, 1998)

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 863 and 892.)
- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a district wide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 and 893.)
- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 and 891.)
- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 and 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

Statewide Cost Estimate

Following is a breakdown of estimated total costs per fiscal year:

Fiscal year	# Claims Filed With SCO	Claim Totals
1997-98	357	\$ 12,646,442
1998-99	390	\$ 15,237,871
1999-00	656	\$ 33,108,745
2000-01	686	\$ 30,365,255
2001-02	680	\$ 30,154,499
2002-03 (2.2% ⁸)	n/a	\$ 30,817,898
2003-04 (3.2% ⁹)	n/a	\$ 31,804,071
Total		\$184,134,781
Statewide Cost Estimate Total (Rounded)		\$ 184,135,000

⁸ Implicit Price Deflator as forecast by Department of Finance.

⁹ *Ibid.*

Commission on State Mandates

Original List Date: 4/10/1998
Last Updated: 1/6/2003
List Print Date: 01/24/2003
Claim Number: 97-TC-23
Issue: Standardized Testing and Reporting

Mailing Information: Notice of Adopted SCE

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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December 11, 2001

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

And Affected State Agencies and Interested Parties

Re: ITEM 6 - PROPOSED PARAMETERS AND GUIDELINES
Standardized Testing and Reporting, 97-TC-23
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz:

This item is being postponed from the December 12, 2001 hearing so that staff may address issues raised in late filings. It will be rescheduled for the January 24, 2002 hearing.

If you have any questions, please contact Nancy Patton at (916) 323-8217.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Paula Higashi'.

PAULA HIGASHI
Executive Director

C: Mailing list

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1 MAILED: 12/11/10
1 DATE: 12/11/10
1 CHRON: FILE:
1 WORKING BINDER: FILE:

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number

97-TC-23

Claimant

Claim of San Diego Unified School District

Subject

Chapter 828, Statutes of 1997

Issue

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Subject

Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

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Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

Mr. John B. Mockler, Executive Director (E-8)
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Interested Person

Subject

Chapter 828, Statutes of 1997

Issue

Standardized Testing and Reporting

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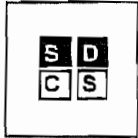
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**SAN DIEGO CITY SCHOOLS**

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

(619) 725-7565
Fax (619) 725-7569**FINANCIAL ACCOUNTING DEPARTMENT**
MANDATED COST UNIT, ROOM 3159
apalkowi@mail.sandi.net

Sent By Facsimile

December 10, 2001

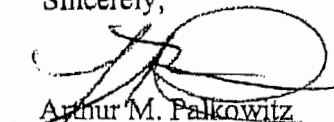
Nancy Patton
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814Re: *School Safety Officer Training (CSM 01-TC-05)*

Dear Ms. Patton:

Please find enclosed a declaration in support of the Claimant's Parameters and Guidelines.

If you have any questions or comments regarding this issue, please feel free to contact me. Thank you for your cooperation.

Sincerely,


Arthur M. Palkowitz

AMP/at

"The mission of San Diego City Schools is to improve student achievement
by supporting teaching and learning in the classroom."

DECLARATION OF ROBERT RAINES

SAN DIEGO UNIFIED SCHOOL DISTRICT

No. CSM-97-TC-23
Chapter 828, Statutes of 1997
Education Code sections 60605, 60607,
60609, 60615, 60630, 60640, 60641 and 60643
Title 5, California Code of Regulations
Sections 850-874

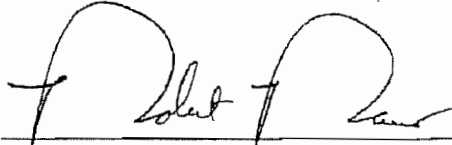
I, Robert Raines, make the following declaration and statement:

1. I am the Program Manager of the Testing Unit, Planning, Assessment, Accountability and Development Division for the San Diego Unified School District (the "District"). Among my responsibilities as Program Manager, I have been named as the District Coordinator for the Standardized Testing and Reporting ("STAR") program and will coordinate the academic skills assessments developed by the State Department of Education.
2. I am familiar with the provisions and requirements of Chapter 828, Statutes of 1997, Education Code sections 60605, 60607, 60609, 60615, 60630, 60640, 60641 and 60643, and Title 5, California Code of Regulations sections 850-874, all relating to the STAR program and the academic skill assessment program
3. The purchase of test materials should include pre-coded answer sheets and pre-addressed parent reports. This material is mandatory for large districts to comply with the stringent requirements of providing data to the parents on a timely basis.
4. It is required for employees to annually review the Site Examiner's Manual,

containing any changes/modifications. Due to turnover of staff and slightly different procedures used at each site, annual training will be required. Such training should not be classified as a "one-time training activity".

I know the foregoing facts personally and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED December 10, 2001 in San Diego, California.

A handwritten signature in black ink, appearing to read "Robert Raines", is written over a horizontal line.

Robert Raines, Program Manager
Testing Unit,
Office of The Superintendent
San Diego Unified School District

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October 19, 2001

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

And Affected State Agencies and Interested Parties

Re: *Standardized Testing and Reporting, 97-TC-23*
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz:

This item is being postponed from the October 25, 2001 hearing so that staff may address additional comments. It will be rescheduled for the November 29, 2001 hearing.

If you have any questions, please contact Nancy Patton at (916) 323-8217.

Sincerely,

A handwritten signature in cursive script, reading 'Paula Higashi'.

PAULA HIGASHI
Executive Director

C: Mailing list

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MAILED: ✓
DATE: 10/19/01
CHRON: VS
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WORKING BINDER: ✓

Commission on State Mandates

List Date: 04/10/1998

Mailing Information Postponement

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Standardized Testing and Reporting

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Subject

Chapter 828, Statutes of 1997

Issue

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Subject Chapter 828, Statutes of 1997
Issue Standardized Testing and Reporting

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Interested Person

Subject

Chapter 828, Statutes of 1997

Issue

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October 15, 2001

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

And Affected State Agencies and Interested Parties

Re: 97-TC-23; *Standardized Testing and Reporting*
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz:

Staff's analysis and Claimants' Proposed Parameters and Guidelines, as Modified by Staff, are complete and enclosed for your review and comment.

Commission Hearing

The Proposed Parameters and Guidelines are set for hearing on Thursday, October 25, 2001 at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will also appear. If you would like to request postponement of the hearing, please refer to section 1183.01 (c) of the Commission's regulations.

If you have any questions, please contact Nancy Patton at (916) 323-8217.

Sincerely,

A handwritten signature in cursive script, reading 'Paula Higashi'.

PAULA HIGASHI
Executive Director

MAILED: ✓
DATE: 10/15/01
INITIAL: VS
FAXED: ✓
CHRON: FILE:
WORKING BINDER: ✓

ITEM 7

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

Title 5, California Code of Regulations, Sections 850-874

Standardized Testing and Reporting

Executive Summary

Summary of the Mandate

Statutes of 1997, Chapter 828, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, chapter 828, and the implementing regulations at title 5, California Code of Regulations, Sections 850-874, established the Standardized Testing and Reporting (STAR) Program related to achievement testing that school districts must administer to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution.

The claimant submitted its proposed parameters and guidelines on September 5, 2000. Staff received comments from the Department of Finance (DOF), the State Controller's Office (SCO), and rebuttal to those comments from the claimant. A summary of the most pertinent issues raised by the parties, and staff's Proposed Parameters and Guidelines are discussed below.

Staff Analysis

Period of Reimbursement

Staff revised the period of reimbursement proposed by claimant to reflect that the enacting legislation contained an urgency clause. Therefore, the period of reimbursement begins on October 1, 1997.

Reimbursable Activities

At the request of the SCO and DOF, staff narrowed claimant's proposed language for acquiring test materials, supplies and equipment to clarify that purchases beyond the amount required by the mandate are not reimbursable, and that requesting additional materials from the contract test provider are optional and are not reimbursable.

Staff deleted language that reimbursed school districts for collating and submitting pupil demographic information, and for additional sums paid to teachers for time spent administering the tests, since these activities were not included as reimbursable activities in the Commission's Statement of Decision.

Offsetting Savings and Other Reimbursements

Upon agreement with DOF, staff revised this section to provide that reimbursement for 1) designating site and district coordinators; 2) exempting pupils from STAR Program tests upon request of parents or guardians; 3) coordination of testing at the test site; and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, must be offset by funding provided each year in the state budget for the STAR Program.

Staff made other nonsubstantive technical revisions to claimant's proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt staff's Proposed Parameters and Guidelines, which begin on page 7.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Claimant

San Diego Unified School District

Chronology

- 08-24-00 Commission adopted Statement of Decision¹
- 08-31-00 Claimant submitted Proposed Parameters and Guidelines²
- 10-18-00 State Controller's Office (SCO) submitted comments on claimant's proposal³
- 11-20-00 Department of Finance (DOF) submitted comments on claimant's proposal⁴

Staff Analysis

No comments were received on, nor did staff make any substantive changes to, sections: I. Summary of the Mandate; II. Eligible Claimants; VI. Supporting Data; or VIII. State Controller's Office Required Certification. Non-substantive changes were made for the purposes of clarification, conformity to the Statement of Decision; and consistency with language in recently adopted parameters and guidelines.

Staff modified the claimant's proposed parameters and guidelines, as discussed below:

III. Period of Reimbursement

The claimant's proposal indicated that the period of reimbursement began July 1, 1997. However, Statutes of 1997, chapter 828 was an urgency statute effective October 1, 1997. Staff therefore clarified that costs incurred after October 1, 1997 for this mandate are eligible for reimbursement.

IV. Reimbursable Activities

A. Training, Policies, and Procedures

The DOF argued that the training required for this mandate is minimal and that review of the STAR Program requirements does not appear to create a state-mandated cost. The DOF submitted that all coordinators will be fully trained on the legal requirements and, since a school must comply with all applicable laws, reviewing laws and regulations to ensure compliance would be within the existing responsibilities of a school.

In its Statement of Decision, the Commission found that "Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff" is a reasonable and necessary activity related to the mandate and therefore constitutes a reimbursable state mandate.

Staff therefore kept the claimant's language regarding reimbursement for reviewing the requirements and conducting or attending training. Staff added that, "Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement.

¹ Exhibit A.

² Exhibit B, Claimant's Proposed Parameters and Guidelines.

³ Exhibit C, State Controller's Office comments.

⁴ Exhibit D, Department of Finance comments.

However, the labor time of the teacher spent in attending training sessions during that teacher's normal classroom hours is not reimbursable." This language is consistent with past Commission decisions regarding teacher training.

B. Acquiring Test Materials, Supplies and Equipment

The SCO requested deletion of the phrase "without limitation" to prevent unnecessary reimbursement of excessive purchases beyond the amount that is required by the mandate. Staff agrees with the SCO that this language is too broad and therefore made the modification.

The claimant's proposal included reimbursement for contacting the test provider and preparing the contract. The proposal further included the Commission's finding in the Statement of Decision that preparation of the contract with the test publisher is limited to completion of the contract.

The DOF argued that the contractor is responsible for producing all testing materials required for the STAR Program in sufficient quantities to test all required students (including a 15 percent overage), which is provided for in the state budget. The DOF submitted that, to the extent that districts request additional material and/or services, such requests are voluntary on the part of the district and would not be reimbursable.

Consistent with DOF's argument, staff added the Commission's finding that; "Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable."

C. Pretest and Posttest Coordination

The claimant included "collect, collate, and submit pupil demographic information" as a reimbursable activity.

This activity is not required in the statute or regulations and is not included as a reimbursable activity in the Commission's Statement of Decision. Staff finds that collecting, collating and submitting pupil demographic information is not reasonably necessary to carry out the mandate, and therefore, deleted the activity from the claimant's proposal. Consistent with the regulations and the Statement of Decision, reimbursement for contracting with the test provider and returning test and enrollment data by grade level to the test publisher are included as reimbursable activities.

The DOF submitted that reimbursement for the activities of designating site and district coordinators, exempting pupils from STAR Program tests upon request of the parents or guardians, and coordination of testing at the test site should be offset by the amount provided in the annual state budget. Staff notes that the Budget Acts for each fiscal year eligible for reimbursement for this mandate include an appropriation to the California Department of Education for local assistance for administration of the STAR Program.⁵ Staff identified the line-item appropriations in Section VII. Offsetting Savings and Other Reimbursements.

The DOF further submitted that districts that choose to pre-identify test forms receive funding to provide the information to the test publisher as an incentive, and therefore, the costs

⁵ Exhibit E, State Budget Act line item funding for the Star Program for fiscal years: 1998-99, 1999-00, 2000-01, and 2001-02.

incurred should not be claimed through the mandated claiming process. Staff notes that the activity of pre-identifying test forms is optional and was not found as a reimbursable state mandate in the Statement of Decision.

D. Test Administration

The claimant proposed that "time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time."

The SCO requested deletion of the phrase, "unless the teacher is paid an additional sum for such time" because the mandate does not require the STAR test to be given at any time other than normal school hours. In addition, the SCO submitted that the mandate does not require a district to pay teachers more during normal classroom hours when pupils are taking the STAR test.

The DOF noted that, in its Statement of Decision, the Commission found costs associated with teacher time are not reimbursable. The DOF submitted that teacher time would not be reimbursable since districts already receive a per pupil funding rate for up to 180 days (or its equivalent minutes) of instruction and that administration of the STAR Program tests falls within the time allotted for regular instruction.

In its Statement of Decision, the Commission found that administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive, and administration of the additional test to pupils of limited English proficiency are reimbursable. However, the Commission further found for both tests that "Costs associated with teacher time to administer the test are not reimbursable." This language is consistent with past decisions regarding teacher time. The Commission did not find, nor do the test claim statute or regulations require, reimbursement for additional sums paid to teachers for time spent administering the tests. Staff therefore deleted that language.

E. Reporting and Recordkeeping

The claimant's proposal included reimbursement for the cost of materials and supplies used for reports "including, without limitation, paper and envelopes." The SCO requested deletion of the phrase "without limitation" to prevent a district from claiming excessive purchases. The SCO submitted that reimbursement is provided only for the cost of materials and supplies that are consumed or expended for the mandate. Staff agrees with SCO that this language is too broad and therefore made the modification.

Consistent with the Commission's finding in the Statement of Decision, staff added reimbursement for, "Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program."

The DOF argued that the recording and maintaining individual records of the tests in pupil records does not create a higher level of service and that, to the extent the district chooses to provide more information than provided by law, the costs would not be reimbursable. Staff finds that the activity of recording and maintaining individual records of the tests in pupil

records is required by statute and was found to be reimbursable in the Commission's Statement of Decision. Staff agrees that the provision of additional information would not be reimbursable.

The DOF submitted that the reporting of data to the school district governing board or county office of education and the submission of the report to the Superintendent of Public instruction should be offset by the amount provided in the annual state budget. Staff notes that the Budget Acts for each fiscal year eligible for reimbursement for this mandate already include an appropriation to the California Department of Education for local assistance for administration of the STAR Program. Staff identified the line-item appropriations in Section VII. Offsetting Savings and Other Reimbursements.

V. Claim Preparation

The claimant's proposal included reimbursement for travel expenses, "including, without limitation, mileage, transportation, meals..." The SCO requested deletion of the phrase "without limitation" to prevent reimbursement of unnecessary travel costs beyond the requirement of the mandate. Staff agrees with SCO that this language is too broad and therefore made the modification.

VII: Offsetting Savings and Other Reimbursements

As noted above in Sections C and E, staff revised this section to provide that reimbursement for 1) designating site and district coordinators; 2) exempting pupils from STAR Program tests upon request of parents or guardians; 3) coordination of testing at the test site; and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, must be offset by funding already provided each year in the State Budget for the STAR Program.

IX. Parameters and Guidelines Amendments

Staff added this section to cite the Commission's regulations regarding amendments to parameters and guidelines.

Staff Recommendation

Staff recommends the Commission adopt the Claimant's Proposed Parameters and Guidelines, As Modified By Staff, beginning on page 7.

ITEM 7

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

Title 5, California Code of Regulations, Sections 850-874

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Statutes of 1997, Chapter 828, Statutes of 1997, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, cChapter 828, Statutes of 1997 and the implementing regulations at title 5, California Code of Regulations, Sections 850-874, established the Standardized Testing and Reporting (STAR) Program a program-related to achievement testing that school districts must administer to pupils in the state ~~the Standardized Testing and Reporting (STAR) Program~~. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who ~~are~~ is enrolled in grades 2 through 11 if the pupil was initially enrolled in any ~~school district~~ public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that ~~Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874~~ the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution.

II. ELIGIBLE CLAIMANTS

Any "school district," as defined in Government Code section 17519, except for community colleges, ~~which that~~ incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Statutes of 1997, chapter 828, was an urgency statute effective on October 10, 1997. Therefore, costs incurred on or after July-October 10, 1997 for compliance with the mandate are reimbursable.

Actual costs for one fiscal year ~~should~~ shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code sSection 17561 (d)(31), of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days from the date on which of issuance of the claiming instructions by the State Controller's Office issues claiming instructions.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of labor, materials and supplies, contacted services, fixed assets, and travel incurred for the following mandate components are reimbursable:

A. Training, Policies, and Procedures:

Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to:

- reimbursement of the ~~labor time of administrators, teachers, and other school district personnel involved with to review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education) and to conduct or attend training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the labor time of the teacher spent in attending training sessions during that teacher's normal classroom hours is not reimbursable.~~
- Ppreparation of policies, procedures, and forms, ~~preparation for training sessions;~~
- the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and
- Travel expenses for the school district personnel who conduct or attend training sessions.

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this component.

B. Acquiring Test Materials, Supplies and Equipment

Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, ~~without limitation,~~ test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to:

- Ceontacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subs. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) , and Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.
- Purchasing materials in accordance with the standard contract pursuant to the State California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.) Administering the purchase of materials.
- Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education.

The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.

C. Pretest and Posttest Coordination

Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes:

- -Llabor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials needs. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.);
- Ceonduct inventories of test materials received from the test publisher;
- Resolve any discrepancies in the quantity of test materials received from the test publisher;

- Distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point.
- Resolve any discrepancies in the quantity of test materials received from the district.
- Coordinate testing dates and make-up dates testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials ~~is-at~~ test sites to appropriate teachers or other school districts personnel who administer the tests.
- Prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials.
- Maintain security over test material and test data.
- collect, collate and submit pupil demographic information;
- Process requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Collect test materials after the tests are conducted.
- Conduct an inventory of test materials collected at each test site.
- Return test materials and test data from test sites to a central school district collection point.
- Conducting an inventory of test materials received at the school district central collection point from test sites; ~~and~~
- Return test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 874.)

D. Test Administration

Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes:

- Labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through

11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.), and

- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).);

~~provided, however, that~~ Time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, ~~unless the teacher is paid an additional sum for such time.~~

E. Reporting and Record Keeping

Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes:

- Labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).);
- Ppreparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.);
- Rreporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.); and
- Ceollecting, collating and submitting to the State Department of Education Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
- Submission to the State California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)

The cost of materials and supplies used for reports (including, ~~without limitation,~~ paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.

V. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set identify each cost forth a listing of each item for which reimbursement is claimed under this mandate. Claimed costs must be identified allocated according to the each components of reimbursable activity described in Section IV of these parameters and guidelines.

A. Direct Costs

Direct costs are defined as costs that can be traced to specific goods, services, programs, activities, or functions and shall be supported by the following cost element information:

1. Employee Salaries and Benefits

Identify the employee(s) and/or show the classification of the employee(s) involved. Describe the reimbursable activities mandated functions performed and specify the actual time devoted to each reimbursable activity function by each employee, productive hourly rate, and related fringe benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

Reimbursement for personnel services includes compensation for salaries, wages, and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g. annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

2. Materials and Supplies

Only the expenditures that which can be identified as a direct costs of the this mandate can be claimed. List the cost of materials and supplies which have been consumed or expended specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based upon a recognized method of costing, consistently applied.

3. Contracted Services

Provide the name(s) of the contractor(s) who performed the service(s), including any fixed contracts for services. Describe the reimbursable activities performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services. For fixed price contracts, list only the activities performed, the

~~dates services were performed and the contract price.~~ Attach a copy of the contract to the claim.

4. Fixed Assets

List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs, and installation costs. If the equipment or other fixed capital asset is used for purposes other than for this mandate, only the pro rata portion of the purchase price can be claimed. ~~is reimbursable.~~

5. Travel

Travel expenses for, ~~including, without limitation,~~ mileage, ~~transportation, meals, per diem, lodging, parking, and telephone, other~~ employee entitlements are eligible for reimbursement ~~able in accordance with the rules of the local jurisdiction. school district procedures.~~ Provide the name(s) of the traveler(s), ~~person(s) traveling,~~ purpose of the travel, inclusive dates and times of travel, destination point(s), and travel ~~costs~~expenses.

6. Training

The cost of training an employee to perform for the mandated activities, as specified in Section IV of these parameters and guidelines, is eligible for reimbursement ~~reimbursable.~~ Identify the employee(s) by name and job classification. Provide the title and subject ~~name~~ of the training session, the dates ~~of attendance~~ attended, and the location. Reimbursable costs may include, ~~but are not limited to,~~ salaries and benefits, ~~of personnel conducting or attending the training,~~ registration fees, transportation, lodging, and per diem. ~~and travel expenses.~~

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate, and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
2. County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents (e.g., employee time records, cost allocation reports, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, time studies, etc.) ~~and/or worksheets~~ that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. ~~These documents must be made available to the State Controller on the request.~~

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings ~~provided in the test claim statute~~ that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate shall be identified and deducted from this claim, to the extent that the claimant received such revenue, service charges, fees, or assessments. ~~Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "under reimbursements."~~

Specifically, reimbursement for 1) designating site and district coordinators; 2) exempting pupils from STAR Program tests upon request of parents or guardians; 3) coordination of testing at the test site; and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction shall be offset by funding provided in the State Budget for the STAR Program.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant shall ~~will~~ be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

IX. PARAMETERS AND GUIDELINES AMENDMENTS

Pursuant to Title 2, California Code of Regulations, section 1183.2, parameters and guidelines amendments filed before the deadline for initial claims as specified in the claiming instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed after the initial claiming deadline must be submitted on or before January 15 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Harmeet Barkschat, Interested person
Mandate Resource Services

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Interested Person

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Mr. William A. Doyle, Mandated Cost Administrator
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Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

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Interested Party

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Mr. John B. Mockler, Executive Director (E-8)
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Mr. Joseph D. Mullender, Jr.,
Attorney at Law

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Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

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Interested Person

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Ms. Gamy Rayburn, Accounting Director
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Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

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Jim Spano,
State Controller's Office
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Mr. Paige Vorhies, Bureau Chief (B-8)
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Interested Party

SixTen and Associates

Mandate Reimbursement Services

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Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

July 9, 2001

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Test Claims of San Diego and other districts

4501	239/94	Schoolsite Councils
97-TC-23	828/97	STAR
98-TC-01	736/97	Comprehensive School Safety Plans
98-TC-10	828/97	Standards-Based Accountability
98-TC-19	742/98	Pupil Promotion and Retention
99-TC-03	673/98	Charter Schools II
99-TC-15	331/98	Teacher Incentive Program

Dear Ms. Higashi:

This letter is notification that effective July 9, 2001, I no longer represent the San Diego Unified School District on the above referenced matters.

Please direct your future contacts to Mr. Art Palkowitz, Legislative Mandates Specialist, San Diego Unified School District, at 619-725-7565.

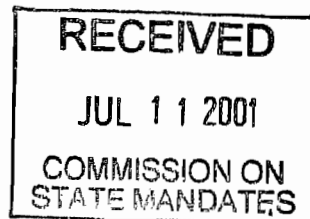
I would like to be included as an interested person on the mailing lists for these matters.

Thank-you.

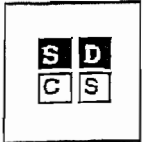
Sincerely,



Keith B. Petersen



C: Dr. Carol Berg, Consultant, EMCN
Mr. Art Palkowitz, Legislative Mandates Specialist, SDUSD

**SAN DIEGO CITY SCHOOLS**

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2662

(619) 725-7565
Fax (619) 725-7580**FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159****FAX TRANSMITTAL**

To: Paula Higashi, Executive Director
Commission on State Mandates
916-445-0278

c: Carol Berg, EMCN Consultant
916-446-2011

From: Mandated Cost Unit, SDUSD

Date: April 2, 2001

Subject: CSM 97-TC-23
Chapter 828/97
Standardized Testing and Reporting

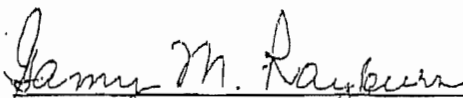


This memo appoints Keith B. Petersen to represent San Diego City Schools in the above referenced matter. Please direct all inquiries to Mr. Petersen, with a copy to the District.

Thank you.

APPOINTMENT OF REPRESENTATIVE

The San Diego Unified School District appoints Keith B. Petersen, SixTen and Associates, as its representative for the above referenced test claim.


Gamy Rayburn, Accounting Director

4.2.01
Date

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



March 16, 2001

Ms. Gamy M. Rayburn
Accounting Director
San Diego City Schools
4100 Normal Street, Room 3251
San Diego, CA 92130

And Enclosed Mailing List

Re: **Extension of Time Request**
Standardized Testing and Reporting, 97-TC-23
San Diego Unified School District, Claimant

Dear Ms. Rayburn:

Your request for an extension of time to rebut the comments filed by state agencies on your proposed Parameters and Guidelines of the above-named claim is approved for good cause. Your rebuttal is now due on or before May 18, 2001.

Please contact Piper Rodrian at (916) 323-5869 if you have questions.

Sincerely,

A handwritten signature in cursive script that reads 'Paula Higashi'.

PAULA HIGASHI
Executive Director

Enclosure: Mailing List

f:/mandates/1997/97tc23/extltrok2.doc

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

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Mandate Resource Services

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FAX: (916) 944-8657

Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

Mr. James Lombard, Principal Analyst (A-15)
Department of Finance

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Mr. Wayne Martin, Director of Fiscal Services
Stockton Unified School District

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State Board of Education

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Mr. Anthony Murray,
Loeb & Loeb

1000 Wilshire Boulevard 18th Floor
Los Angeles CA 90017

Tel: (213) 688-3542
FAX: (213) 688-3460

Subject

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Mr. Keith B. Petersen, President
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Ms. Gamy Rayburn, Accounting Director
San Diego City Schools

4100 Normal Street Room 3251
San Diego CA 92103-2682

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Mr. Steve Smith, CEO (Interested Person)
Mandated Cost Systems, Inc.

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Jim Spano,
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Division of Audits (B-8)
300 Capitol Mall, Suite 518 P.O. Box 942850
Sacramento CA 95814

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FAX: (916) 324-7223

Claim Number

97-TC-23

Claimant

Claim of San Diego Unified School District

Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

Mr. Paige Vorhies, Bureau Chief (B-8)

State Controller's Office

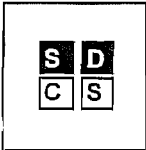
Division of Accounting & Reporting

3301 C Street Suite 500

Sacramento CA 95816

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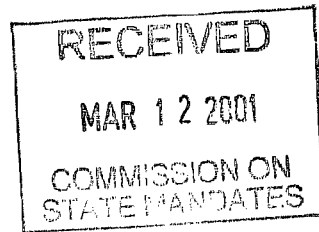
SAN DIEGO CITY SCHOOLS

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

(619) 725-2667
Fax (619) 725-7692

ACCOUNTING DEPARTMENT

Gamy M. Rayburn
Accounting Director



March 9, 2001

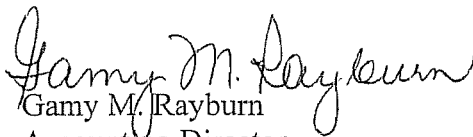
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: *Standardized Testing and Reporting*

Dear Ms. Higashi:

The San Diego Unified School District ("District") requests an additional sixty- (60) day postponement to respond to the proposed Parameters and Guidelines of the Standardized Testing and Reporting Mandate, due March 19, 2000. The person responsible for responding to the proposed Parameter and Guidelines has left the employment of the District, so the District will need a postponement until after the position has been filled or until the District has had an opportunity to contract with an outside contractor to provide these services.

Sincerely,


Gamy M. Rayburn
Accounting Director

"The mission of the San Diego City Schools is to improve student achievement by supporting teaching and learning in the classroom."

PROOF OF SERVICE

Test Claim: CSM 97-TC-23 (*Standardized Testing and Reporting*)

I, the undersigned, declare as follows:

I am employed in the County of San Diego, State of California. I am 18 years of age or older and not a party to the within entitled cause. My business address is 4100 Normal Street, Room 3159, San Diego, California 92103. On March 9, 2001, I served the attached letter to the Commission on State Mandates and the following state agencies and interested parties by placing a true copy thereof in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid:

Paula Higashi, Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814	Harmeet Barkschat Mandate Resource Services 8524 Heath Peak Place Antelope, CA 95843
Dr. Carol Berg School Services of California 1121 L Street, Suite 1060 Sacramento, CA 95814	Allan Burdick DMG-Maximus 4320 Auburn Blvd., Suite 2000 Sacramento, CA 95814
James Lombard Department of Finance 915 L Street, Room 8020 Sacramento, CA 95814	Wayne Martin Stockton Unified School District 701 North Madison Street Stockton, CA 95202-1687
Paul Minney Girard and Vinson 1676 N. California Blvd., Suite 450 Walnut Creek, CA 94596	John Mockler State Board of Education 721 Capitol Mall, Room 532 Sacramento, CA 95814
Joseph Mullender 89 Rivo Alto Canal Long Beach, CA 90803	Andy Nichols Vavrinek Trine Day & Co., LLP 8300 Fair Oaks Blvd., Suite 403 Carmichael, CA 95608
Keith Petersen SixTen and Associates 5252 Balboa Avenue, Suite 807 San Diego, California 92117	Gerry Shelton Dept. of Education, School Business Services 560 J Street, Suite 150 Sacramento CA 95814
Paige Vorhies State Controller's Office 3301 C Street, Suite 500 Sacramento, CA 9581T	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 9, 2001 at San Diego, California.



Alta Toler

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



January 24, 2001

Ms. Gamy M. Rayburn
Accounting Director
San Diego City Schools
4100 Normal Street, Room 3251
San Diego, CA 92130

And Enclosed Mailing List

Re: **Extension of Time Request**
Standardized Testing and Reporting, 97-TC-23
San Diego Unified School District, Claimant

Dear Ms. Rayburn:

Your request for an extension of time to respond to the proposed Parameters and Guidelines of the above-named claim is approved for good cause. Comments are now due on or before March 19, 2001.

Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

A handwritten signature in cursive script that reads 'Paula Higashi'.

PAULA HIGASHI
Executive Director

Enclosure: Mailing List

f:/mandates/1997/97tc23/extltrok.doc

MAILED: ☒ 1/24/01
DATE: 1/24/01
INITIAL: VS
FILE: ☒
WORKING BINDER: _____

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Harmeet Barkschat, Interested person
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8254 Heath Peak Place
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FAX: (916) 446-2011

Mr. Allan Burdick,
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000
Sacramento CA 95841

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Mr. William A. Doyle, Mandated Cost Administrator
San Jose Unified School District

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Claim Number

97-TC-23

Claimant

Claim of San Diego Unified School District

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Chapter 828, Statutes of 1997

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Subject Chapter 828, Statutes of 1997

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Tel: (916) 487-4435
FAX: (916) 487-9662

Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

Jim Spano,
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518 P.O. Box 942850 *Tel:* (916) 323-5849
Sacramento CA 95814 *FAX:* (916) 324-7223

Mr. Paige Vorhies (B-8), Bureau Chief
State Controller's Office
Division of Accounting & Reporting
3301 C Street Suite 500 *Tel:* (916) 445-8756
Sacramento CA 95816 *FAX:* (916) 323-4807



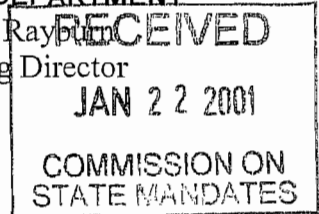
SAN DIEGO CITY SCHOOLS

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Fax (619) 725-7692

ACCOUNTING DEPARTMENT

Gamy M. Rayburn
Accounting Director



January 18, 2001

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: *Standardized Testing and Reporting*

Dear Ms. Higashi:

The San Diego Unified School District ("District") requests a sixty- (60) day postponement to respond to the proposed Parameters and Guidelines of the Standardized Testing and Reporting Mandate. The person responsible for responding to the proposed Parameter and Guidelines has left the employment of the District, so the District will need a postponement until after the position has been filled or until the District has had an opportunity to contract with an outside contractor to provide these services.

Sincerely,


Gamy M. Rayburn
Accounting Director

"The mission of the San Diego City Schools is to improve student achievement by supporting teaching and learning in the classroom."

PROOF OF SERVICE

Test Claim: CSM 97-TC-23 (*Standardized Testing and Reporting*)

I, the undersigned, declare as follows:

I am employed in the County of San Diego, State of California. I am 18 years of age or older and not a party to the within entitled cause. My business address is 4100 Normal Street, Room 3159, San Diego, California 92103. On January 19, 2001, I served the attached letter to the Commission on State Mandates and the following state agencies and interested parties by placing a true copy thereof in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid:

Paula Higashi, Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814	Harmeet Barkschat Mandate Resource Services 8524 Heath Peak Place Antelope, CA 95843
Dr. Carol Berg School Services of California 1121 L Street, Suite 1060 Sacramento, CA 95814	Allan Burdick DMG-Maximus 4320 Auburn Blvd., Suite 2000 Sacramento, CA 95814
James Lombard Department of Finance 915 L Street, Room 8020 Sacramento, CA 95814	Wayne Martin Stockton Unified School District 701 North Madison Street Stockton, CA 95202-1687
Paul Minney Girard and Vinson 1676 N. California Blvd., Suite 450 Walnut Creek, CA 94596	John Mockler State Board of Education 721 Capitol Mall, Room 532 Sacramento, CA 95814
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Keith Petersen SixTen and Associates 5252 Balboa Avenue, Suite 807 San Diego, California 92117	Gerry Shelton Dept. of Education, School Business Services 560 J Street, Suite 150 Sacramento CA 95814
Paige Vorhies State Controller's Office 3301 C Street, Suite 500 Sacramento, CA 95814	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 19, 2001 at San Diego, California.


Alta Toler

RECEIVED

JAN 02 2001

**COMMISSION ON
STATE MANDATES**

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Walnut Creek, CA 94596
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The California Fruit Building
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Sacramento, CA 95814
Tel: 446.9292
Fax: 446.5711
Respond to Walnut Creek

DAVID W. GIRARD
ALLEN R. VINSON
PAUL C. MINNEY
CHRISTIAN M. KEINER*
PHILLIP A. TRUJILLO
HANNA J. MOUSER

Lois Schwartz
Michelle L. Cannon
Laura Lee Briggs
Keith J. Bray
Heather A. Hoyle
Marc P. Bouret
Sherianne Labs
David E. Scribner

OF COUNSEL
Sally Jensen Dutcher

Professional Law Corporation

December 29, 2000

Via Facsimile & U.S. Mail
916.445.0278

Paula Higashi, Executive Director
Commission On State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

RE: Standardized Testing and Reporting
CSM 97-2T-23

Dear Paula:

The following comments are submitted on behalf of Mandated Cost Systems, Inc. in regard to the above-referenced Parameters and Guidelines.

1. Charter school as eligible claimants.

In reviewing the Parameters and Guidelines submitted to the Commission on State Mandates on September 5, 2000, we noted that the eligible claimants Section II did not include any reference to charter schools. However, under Chapter 828, Statutes of 1997, which added Education Code section 60640, a charter school is specifically required to comply with the standardized testing reporting program. (See Education Code section 60640(a)). As such, charter schools are treated as a "school district" for compliance with the standardized testing and reporting program.

In light of the foregoing, we recommend amending Section II (Eligible Claimants) to mirror that of the Michelle Montoya School Safety Act (aka Criminal background checks) as follows:

"Any school district¹, as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible reimbursement."

¹ A school district, as defined in the parameters and guidelines, includes a charter school.

To: Paula Higashi, Executive Director
Re: Standardized Testing and Reporting
Page: 2

2. Extra duty pay for teachers should be reimbursable.

The Department of Finance filed comments attempting to eliminate the language in the proposed Parameters and Guidelines which allows for reimbursement of extra compensation paid to teachers over and above their salaries in administering the test. The Commission on State Mandates has previously approved reimbursement for stipends and/or supplemental compensation paid to teachers in addition to regular duty pay to effectuate a mandate (see *American Government Course and Physical Performance Testing*). As such, in order to provide continuity with the prior Commission decisions the Department of Finance's position should be rejected.

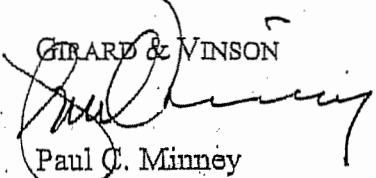
3. Does the restriction on in-classroom teacher time apply to the other reimbursable activities?

Under Reimbursable Activities section [D] costs are limited in that "time spent by the classroom teacher during his/her normal classroom hours" is not reimbursable for this component (unless the teachers paid an additional sum for such time). This limitation on in-classroom teacher time appears only under subdivision [D] activity. In order to avoid confusion, it is respectfully requested that the staff clarify whether this limitation applies to the subdivision [D] activity only. For example, under reimbursable activity [A] one could interpret the Parameters and Guidelines as allowing for reimbursement for teacher time because the exclusion of subdivision [D] does not appear under subdivision [A].

Should you have questions, comments concerns please do not hesitate to call.

Very truly yours,

GIRARD & VINSON



Paul C. Minney
Attorney at Law

PCM/jla

cc: Proof of Service on Mailing List

C:\gandv8\mcs\pom\oharter schools\Standardized Testing and Reporting 12.29.wpd

PROOF OF SERVICE

I am employed in the County of Contra Costa, State of California. I am over the age of 18 and not a party to the within action; my business address is 1676 N. California Blvd., Suite 450, Walnut Creek, California 94596.

On the date indicated below I served the following documents:

**Standardized Testing and Reporting
CSM 97-2T-23**

on all parties in said action as addressed below by causing a true and correct copy thereof to be:

[XX] **BY MAIL** - I placed in a sealed envelope with postage thereon fully prepaid, to be placed in the United States mail at Walnut Creek, California. [*California Code of Civil Procedure*, §§1013 and 1013(a) et. seq.]

Mr Wayne Martin,
Director of Budget and Accounting
Stockton USD
701 North Madison Street
Stockton, CA 95202-1687

Ms. Laurie McVay
DMG-MAXIMUS
4320 Auburn Blvd. Suite 2000
Sacramento, CA 95814

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Education Mandated Cost Network.
1121 L Street, Ste. 1060
Sacramento, CA 95814

Mr. Dean Getz, Director
Vavernick Trine Day & Co., LLP
8300 Fair Oaks Blvd. Suite 403
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Mr. Jim Cunningham, Leg. Mandate Spclst.
San Diego City Schools
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

Mr. William A. Doyle, Mand. Cost Admin.
San Jose Unified School District
1153 El Prado Drive
San Jose, CA 95120

Mr. John B. Mockler
Executive Director
State Board of Education (E-8)
721 Capitol Mall Room 532
Sacramento, CA 95814

Mr. Scott Hannen, Manager (E-8)
Department of Education
School Business Services
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Mr. Andy Nichols
Vavernick Trine Day & Co., LLP
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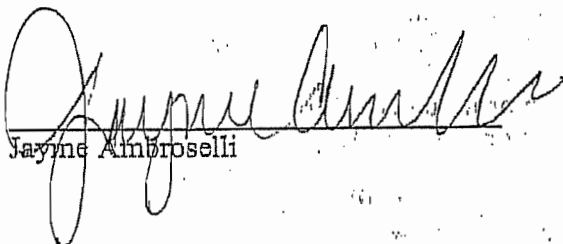
1 Mr. Keith B. Peterson, President,
2 Sixten & Associates
3 5252 Balboa Avenue, Suite 807
4 San Diego, CA 92117

Harmeet Barschat, (Interested Party)
Mandated Resource Service
8254 Health Peak Place
Antelope, CA 95843

5 Steve Smith, CEO (Interested Party)
6 Mandated Cost Systems
7 2275 Watt Avenue, Suite C
8 Sacramento, CA 95825

Mr. Paige Vorhies (B-8) Interested Party
State Controller's Office
Division of Accounting & Reporting
3301 "C" Street, Suite 500
Sacramento, CA 95816

9 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
10 and correct, and that this declaration was executed on December 29, 2000, at Walnut Creek,
11 California.

12 
13 Jayne Ambroselli



SAN DIEGO CITY SCHOOLS

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(619) 725-7585
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FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

November 29, 2000

RECEIVED

DEC 04 2000

COMMISSION ON
STATE MANDATES

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: Parameters and Guidelines: *Standardized Testing and Reporting*

Dear Ms. Higashi:

San Diego Unified School District ("District") files this rebuttal to the comments filed by the Department of Finance ("DOF") on the proposed Parameters and Guidelines for the Standardized Testing and Reporting mandate. The DOF is attempting to reargue issues that were determined by the Commission on State Mandates ("Commission") and, therefore, are not appropriate for comment. Further, the DOF continues its practice of offering unverified opinions as evidence, a violation of the Commission's regulations.

With respect to *Component (not Activity) A*, the DOF argues that the activities "do not appear to create a state-mandated cost" or "would not require a higher level of service." The Commission determined that these activities do impose reimbursable state-mandated new programs or higher levels of service. The DOF's arguments to the contrary at the Parameters and Guidelines stage of the proceedings are outrageous and offensive. The DOF also offers its unsupported opinion that training would be "minimal." This opinion is irrelevant. No change to this section is warranted.

With respect to *Component B*, in the initial years of this new program, school districts were required to purchase test materials directly. Although the state changed this practice in recent years, the DOF provides no evidence (nor could the DOF offer relevant evidence) that the state will continue to pay the cost of the tests directly. If a school district does not purchase tests because the state has contracted with and directly paid the test publisher for the tests, then school districts will not claim reimbursement for those costs. If the state requires school districts to purchase the tests, then school districts will claim reimbursement. Further, the tests are not the only materials that a school district would reasonably and necessarily purchase in order to carry out the state's new program. Materials provided by the test publisher, including administrative manuals, administrative materials, and practice tests are specifically included under section 850 of the Department of Education's regulations. No change to this section is warranted.

With respect to *Component C*, the DOF attempts to reargue matters decided by the Commission at the test claim hearing. The DOF also argues that costs are "minimal" or "offset by the amount provided in the budget." These are factual allegations for which the DOF offers no relevant evidence. As such, these comments are entitled to no weight. Further, these arguments are inappropriate for the Parameters and Guidelines. The costs will be determined by the reimbursement claims and any funds received by a school district for this program will be shown as an offset in those reimbursement claims. No change to this section is warranted.

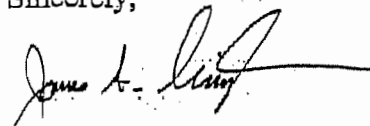
With respect to *Component D*, the Commission's decision to exclude time spent by teachers conducting tests from reimbursement was based upon the assumption that school districts do not incur costs if a classroom teacher performs a state-mandated activity during normal classroom hours. Assuming that this limitation is constitutionally valid, the limitation should not apply if a school district does pay something in addition to the teacher's normal salary, such as the payment of overtime or other additional pay, when a teacher performs the state-mandated activity. The Parameters and Guidelines should retain the proposed language that allows for reimbursement of additional payments, if any, made to teachers to perform these activities. In addition, the funding identified by the DOF is not an offset, because it does not meet the criteria in Government Code section 17556, subdivision (e) (that is, was not included in the statute, is not additional funding, and is not specifically intended to fund the costs of mandate). No change to this section is warranted.

With respect to *Component E*, the DOF's arguments are either that the activities are not reimbursable or that the costs are minimal or offset by funds in the budget. For the reasons set forth above, the first argument is no longer open to debate and the other arguments are inappropriate for the Parameters and Guidelines. No change to this section is warranted.

The DOF does not raise any pertinent reason for changing the proposed Parameters and Guidelines. The Commission should adopt the proposed Parameters and Guidelines as submitted. Please proceed with the Staff Analysis and schedule this item for hearing.

Please let me know if you have any questions or comments.

Sincerely,



James A. Cunningham,
Legislative Mandate Specialist

PROOF OF SERVICE

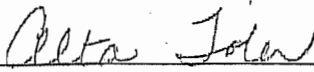
Test Claim: CSM 97-TC-23 (*Standardized Testing and Reporting*)

I, the undersigned, declare as follows:

I am employed in the County of San Diego, State of California. I am 18 years of age or older and not a party to the within entitled cause. My business address is 4100 Normal Street, Room 3159, San Diego, California 92103. On November 29, 2000, I served the attached letter to the Commission on State Mandates and the following state agencies and interested parties by placing a true copy thereof in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid:

Paula Higashi, Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814	Harmeet Barkschat Mandate Resource Services 8524 Heath Peak Place Antelope, CA 95843
Dr. Carol Berg School Services of California 1121 L Street, Suite 1060 Sacramento, CA 95814	Allan Burdick DMG-Maximus 4320 Auburn Blvd., Suite 2000 Sacramento, CA 95814
James Lombard Department of Finance 915 L Street, Room 8020 Sacramento, CA 95814	Wayne Martin Stockton Unified School District 701 North Madison Street Stockton, CA 95202-1687
Paul Minney Girard and Vinson 1676 N. California Blvd., Suite 450 Walnut Creek, CA 94596	John Mockler State Board of Education 721 Capitol Mall, Room 532 Sacramento, CA 95814
Joseph Mullender 89 Rivo Alto Canal Long Beach, CA 90803	Andy Nichols Vavrinek Trine Day & Co., LLP 8300 Fair Oaks Blvd., Suite 403 Carmichael, CA 95608
Keith Petersen SixTen and Associates 5252 Balboa Avenue, Suite 807 San Diego, California 92117	Gerry Shelton Dept. of Education, School Business Services 560 J Street, Suite 150 Sacramento CA 95814
Paige Vorhies State Controller's Office 3301 C Street, Suite 500 Sacramento, CA 9581T	

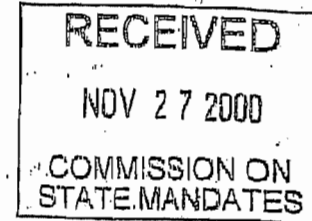
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 29, 2000 at San Diego, California.


Alta Toler



November 20, 2000

Ms. Paula Higashi
Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, CA 95814



Dear Ms Higashi:

As requested in your letter of October 2, 2000, the Department of Finance has reviewed the Parameter and Guidelines, Standardized Testing and Reporting (CSM-97-TC-23), submitted by the San Diego Unified School District related to costs incurred under Chapter No. 828, Statutes of 1997. We are responding to the following activities identified as reimbursable state mandates by the claimants:

Activity A: Training, Policies, and Procedures.

The requirement on a school district to train staff on the STAR Program requirements as outlined in the test claim legislation and regulations may involve some costs, but these costs will vary from district to district. DOF notes that the training required is minimal. In terms of reviewing the STAR Program requirements as outlined in the test claim legislation and regulations, this does not appear to create a state-mandated cost. All coordinators will be fully trained on the legal requirements of the STAR Program. Since a school must comply with all applicable laws, and it would seem that reviewing the laws and regulations to ensure compliance would be within the existing responsibilities of a school. Thus, we believe that any cost associated with this portion of the bill would likely be minor and absorbable, and would not require a higher level of service and would not be reimbursable.

Activity B: Acquiring Test Materials, Supplies, and Equipment.

The contractor is responsible for producing all testing materials required for the STAR Program in sufficient quantities to test all required students (including a 15 percent overage), which is already provided for in the budget. To the extent that districts request additional material and/or services, such requests are voluntary on the part of the districts and would not be reimbursable.

Activity C: Pretest and Posttest Coordination.

The requirement to designate a STAR test site coordinator at each test site and a district coordinator would be reimbursable but should be offset by the amount provided in the budget. However, to the extent that a district or test site already has a coordinator, these costs should be minimal and should be offset by the amount provided in the budget. The requirement to exempt pupils from the STAR Program tests upon request of their parent or guardian would be reimbursable but should be offset by the amount provided in the budget. These costs will vary from district to district but should be minimal. Coordination of testing at the test site would be reimbursable but should be offset by the amount provided in the budget. DOF notes that during

the 1998 and 1999 STAR administrations, any district that chose to pre-identify test forms received \$.15 per pupil to provide the information to the test publisher and any costs identified should be offset by the \$.15 per pupil those districts received. Commencing with the 2000 STAR administration, all districts received \$.32 per pupil as an incentive. Thus, the cost of this activity should not be claimed through the mandated claiming process.

Activity D: Test Administration

In its August 24, 2000 Statement of Decision, the Commission found that costs associated with teacher time are not reimbursable. Thus, this requirement would not be reimbursable, since districts already receive per pupil funding rate for up to 180 days (or its equivalent minutes) of instruction and the administration of the STAR falls within the time allotted for regular instruction.

Activities E: Reporting and Record Keeping

This requirement does not appear to be a higher level of service since the publisher provides individual reports for each student that may simply be placed in each pupil's records. Further, districts are already paid to keep records for all students as part of the normal course of operation. However, to the extent that districts choose to provide more information than is required by law, these costs would not be reimbursable. The reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education would be reimbursable but should be offset by the amount provided in the budget. The submission of a report on the STAR Program to the Superintendent of Public Instruction would be reimbursable but should be offset by the amount provided in the budget. According to the State Department of Education, the test publisher sends the results and test scores of the STAR Program directly to the department. The information identified in this activity is required to be submitted to the test publisher and not the department. Therefore, any costs to provide this information directly to the department should not be considered a state-mandated cost.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328, or Jim Lombard, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,



Kathryn Radtkey-Gaither
Program Budget Manager

Attachment

Attachment A

DECLARATION OF DEPARTMENT OF FINANCE
CLAIM NO: CSM 97-TC-23

As requested in your letter of October 2, 2000, the Department of Finance has reviewed the Parameter and Guidelines, Standardized Testing and Reporting (CSM-97-TC-23), submitted by the San Diego Unified School District related to costs incurred under Chapter No. 828, Statutes of 1997.

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the CSM 97-TC-23 sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

Nov. 20, 2000
at Sacramento, CA

Jeannie Oropeza
Jeannie Oropeza

PROOF OF SERVICE

Test Claim Name: Standardized Testing and Reporting
Test Claim Number: CSM 97-TC-23

As requested in your letter of October 2, 2000, the Department of Finance has reviewed the Parameter and Guidelines, Standardized Testing and Reporting (CSM-97-TC-23), submitted by the San Diego Unified School District related to costs incurred under Chapter No. 828, Statutes of 1997.

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On November 20, 2000, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, CA 95814
Facsimile No. 445-0278

Mr. Joseph D. Mullender, Jr.
Attorney at Law
89 Rivo Alto Canal
Long Beach, CA 90803

DMG-MAXIMUS
Attention: Laurie McVay
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95814

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

Sixten & Associates
Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

E-8
Department of Education
School Business Services
Attention: Gerry Shelton
560 J Street, Suite 150
Sacramento, CA 95814

Mandated Cost Systems, Inc.
Attention: Steve Smith
2275 Watt Avenue, Suite C
Sacramento, CA 95825

San Diego Unified School District
Attention: James Cunningham
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

E-8

State Board of Education
Attention: Greg Geeting, Executive Director
721 Capitol Mall, Room 532
Sacramento, CA 95814

Girard & Vinson
Attention: Paul Minney
1676 N. California Blvd., Suite 450
Walnut Creek, CA 95496

Loeb & Loeb
Attention: Anthony Murray
1000 Wilshire Blvd., 18th Floor
Los Angeles, CA 90017

B-8
Mr. Paige Vorhies
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mandate Resource Services
Attention: Harmeet Barkschat
8254 Heath Peak Place
Antelope, CA 95843

Mr. Wayne Martin
Director of Budget and Accounting
Stockton Unified School District
701 North Madison Street
Stockton, CA 95202-1687

DMG-MAXIMUS
Attention: Allan Burdick
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95814

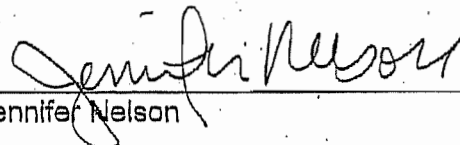
San Jose Unified School District
Attention: William A. Doyle
1153 El Prado Drive
San Jose, CA 95120

Vavrinek Trine Day & Co., LLP
Attention: Mr. Andy Nichols
12150 Tributary Point Drive, Suite 150
Gold River, CA 95670

B-8
Mr. Jim Spano
State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Vavrinek Trine Day & Co., LLP
Attention: Dean Getz, Director
12150 Tributary Point Drive, Suite 150
Gold River, CA 95670

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 20, 2000 at Sacramento, California.


Jennifer Nelson



SAN DIEGO CITY SCHOOLS

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

(619) 725-7665
Fax (619) 725-7680

FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

RECEIVED
NOV 17 2000
COMMISSION ON
STATE MANDATES

November 15, 2000

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: Parameters and Guidelines: *Standardized Testing and Reporting*

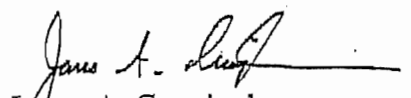
Dear Ms. Higashi:

San Diego Unified School District ("District") files this rebuttal to the comments filed by the State Controller's Office ("SCO") on the proposed Parameters and Guidelines for the Standardized Testing and Reporting mandate. The District has no objection to the first, third, and fourth changes proposed by the SCO. The word "including" is a word of enlargement, not a word of limitation. Therefore, excluding the words "without limitation" has no substantive effect on the Parameters and Guidelines.

The District disagrees with the second change proposed by the SCO. The Commission limited reimbursement for some activities if those activities were performed by classroom teachers. The basis of that limitation was the "fixed environment" fiction, in which the Commission assumed that school districts do not incur costs if a classroom teacher performs a state-mandated activity during normal classroom hours. Assuming that this limitation is constitutionally valid, the limitation should not apply if a school district does pay something in addition to the teacher's normal salary, such as the payment of overtime or other additional pay, when a teacher performs the state-mandated activity. The Parameters and Guidelines should retain the proposed language that allows for reimbursement of additional payments, if any, made to teachers to perform these activities.

Please let me know if you have any questions or comments.

Sincerely,


James A. Cunningham,
Legislative Mandate Specialist

PROOF OF SERVICE

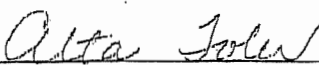
Test Claim: CSM 97-TC-23 (*Standardized Testing and Reporting*)

I, the undersigned, declare as follows:

I am employed in the County of San Diego, State of California. I am 18 years of age or older and not a party to the within entitled cause. My business address is 4100 Normal Street, Room 3159, San Diego, California 92103. On November 15, 2000, I served the attached letter to the Commission on State Mandates and the following state agencies and interested parties by placing a true copy thereof in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid:

Paula Higashi, Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814	Harmeet Barkschat Mandate Resource Services 8524 Heath Peak Place Antelope, CA 95843
Dr. Carol Berg School Services of California 1121 L Street, Suite 1060 Sacramento, CA 95814	Allan Burdick DMG-Maximus 4320 Auburn Blvd., Suite 2000 Sacramento, CA 95814
James Lombard Department of Finance 915 L Street, Room 8020 Sacramento, CA 95814	Wayne Martin Stockton Unified School District 701 North Madison Street Stockton, CA 95202-1687
Paul Minney Girard and Vinson 1676 N. California Blvd., Suite 450 Walnut Creek, CA 94596	John Mockler State Board of Education 721 Capitol Mall, Room 532 Sacramento, CA 95814
Joseph Mullender 89 Rivo Alto Canal Long Beach, CA 90803	Andy Nichols Vavrinek Trine Day & Co., LLP 8300 Fair Oaks Blvd., Suite 403 Carmichael, CA 95608
Keith Petersen SixTen and Associates 5252 Balboa Avenue, Suite 807 San Diego, California 92117	Gerry Shelton Dept. of Education, School Business Services 560 J Street, Suite 150 Sacramento CA 95814
Paige Vorhies State Controller's Office 3301 C Street, Suite 500 Sacramento, CA 9581T	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 15, 2000 at San Diego, California.


Alta Toler

COMMISSION ON STATE MANDATES

80 NINTH STREET, SUITE 300
ACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



October 31, 2000

Mr. James A. Cunningham
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list)

RE: **Dismissal of Education Code Sections 60605 and 60607,
subdivisions (b)-(e) from:**

Test Claim: *Standardized Testing and Reporting*
(formerly *Academic Assessments*) 97-TC-23

San Diego Unified School District

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643

Statutes of 1997, Chapter 828

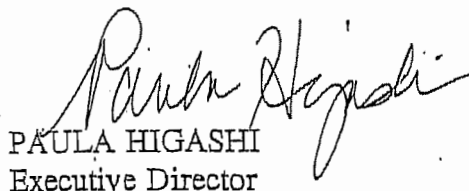
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Cunningham:

The Commission on State Mandates adopted the attached Statement of Decision on
October 26, 2000. This decision is effective on October 31, 2000.

Please contact Shirley Opie at (916) 323-3562 if you have any questions.

Sincerely,


PAULA HIGASHI
Executive Director

Enclosure: Adopted Statement of Decision

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE DISMISSAL OF PORTIONS OF
TEST CLAIM:

Education Code Sections 60605 and 60607,
Subdivisions (b)-(e), as amended by Statutes
of 1997, Chapter 828;

Filed on March 23, 1998

By the San Diego Unified School District,
Claimant.

No. 97-TC-23

Academic Assessments

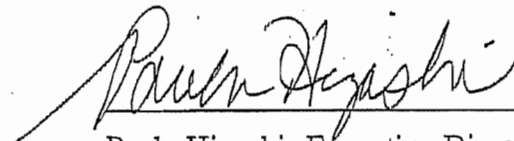
STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION
17500 ET SEQ.; TITLE 2, CALIFORNIA
CODE OF REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on October 26, 2000)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in
the above-entitled matter.

This Decision shall become effective on October 31, 2000.


Paula Higashi, Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE DISMISSAL OF PORTIONS OF
TEST CLAIM:

Education Code Sections 60605 and 60607,
Subdivisions (b)-(e), as amended by Statutes
of 1997, Chapter 828;

Filed on March 23, 1998

By the San Diego Unified School District,
Claimant.

No. 97-TC-23

Academic Assessments

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION
17500 ET SEQ.; TITLE 2, CALIFORNIA
CODE OF REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on October 26, 2000)

STATEMENT OF DECISION

On March 23, 1998, the San Diego Unified School District filed a test claim, 97-TC-23, alleging that Statutes of 1997, Chapter 828, imposed a reimbursable state mandated program upon school districts. Specifically, the claimant contended that, under the test claim legislation, school districts must administer achievement testing through two separate programs - the Academic Skills Assessment Program and the Standardized Testing and Reporting (STAR) Program.

On June 14, 2000, the claimant submitted a motion to sever and withdraw Education Code sections 60605 and 60607, subdivisions (b)-(e) from test claim, 97-TC-23. These sections relate to the Academic Skills Assessment Program, which, by statute, is to be implemented in accordance with regulations to be adopted by the Department of Education.

CONCLUSION

IT IS HEREBY ORDERED that Education Code sections 60605 and 60607, subdivisions (b)-(e), as added by Statutes of 1992, Chapter 722, are dismissed from test claim, 97-TC-23.

The claimant, or another school district may file a new test claim on the above-referenced matter. However, such claim shall be subject to a new filing date and reimbursement period.

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Harmeet Barkschat, Interested person
Mandate Resource Services

8254 Heath Peak Place
Antelope CA 95843

Tel: (916) 727-1350
FAX: (916) 727-1734

Dr. Carol Berg, Ph. D,
Education Mandated Cost Network

1121 L Street Suite 1060
Sacramento CA 95814

Tel: (916) 446-7517
FAX: (916) 446-2011

Allan Burdick,
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000
Sacramento CA 95841

Tel: (916) 485-8102
FAX: (916) 485-0111

Mr. Jim Cunningham, Leg. Mandate Spolst.
San Diego City Schools

4100 Normal Street Room 3159
San Diego CA 92103-2682

Tel: (619) 725-7565
FAX: (619) 725-7580

Mr. William A. Doyle, Mandated Cost Administrator
San Jose Unified School District

1153 El Prado Drive
San Jose CA 95120

Tel: (408) 997-2500
FAX: (408) 997-3171

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Mr. Dean Getz, Director
Vavrinek Trine Day & Co., LLP

12150 Tributary Point Drive, Suite 150
Gold River CA 95670

Tel: (916) 944-7394

FAX: (916) 944-8657

Mr. James Lombard (A-15), Principal Analyst
Department of Finance

915 L Street
Sacramento CA 95814

Tel: (916) 445-8913

FAX: (916) 327-0225

Mr. Wayne Martin,
Director of Budget and Accounting

Stockton USD, 701 North Madison Street
Stockton CA 95202-1687

Tel: (209) 953-4044

FAX: (209) 953-4477

Ms. Laurie McVay,
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000
Sacramento CA 95841

Tel: (916) 485-8102

FAX: (916) 485-0111

Mr. Paul Minney,
Girard & Vinson

1676 N. California Blvd. Suite 450
Walnut Creek CA 94596

Tel: (925) 746-7660

FAX: (925) 935-7995

Mr. John B. Mockler, Executive Director (E-8)
State Board of Education

721 Capitol Mall Room 532
Sacramento CA 95814

Tel: (916) 657-5478

FAX: (916) 653-7016

Chapter 828, Statutes of 1997

Academic Assessments

Mr. Joseph D. Mullender, Jr.,
Attorney at Law

89 Rivo Alto Canal
Long Beach CA 90803

Tel: (562) 439-6376
FAX: (626) 962-7102

Mr. Anthony Murray,
Loeb & Loeb

1000 Wilshire Boulevard 18th Floor
Los Angeles CA 90017

Tel: (213) 688-3542
FAX: (213) 688-3460

Mr. Andy Nichols,
Vavrinek Trine Day & Co., LLP

12150 Tributary Point Drive, Suite 150
Gold River CA 95670

Tel: (916) 353-1050
FAX: (916) 351-1020

.. Keith B. Petersen, President
Sixten & Associates

5252 Balboa Avenue Suite 807
San Diego CA 92117

Tel: (619) 514-8605
FAX: (619) 514-8645

Mr. Gerry Shelton, (E-8)

Department of Education
School Business Services
560 J Street Suite 150
Sacramento CA 95814

Tel: (916) 322-1466
FAX: (916) 322-1465

Mr. Steve Smith, CEO (Interested Person)
Mandated Cost Systems

2275 Watt Avenue Suite C
Sacramento CA 95825

Tel: (916) 487-4435
FAX: (916) 487-9662

Subject Chapter 828, Statutes of 1997
Issue Academic Assessments

Jim Spano,
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518 P.O. Box 942850 Tel: (916) 323-5849
Sacramento CA 95814 FAX: (916) 324-7223

Mr. Paige Vorhies (B-8), Bureau Chief
State Controller's Office
Division of Accounting & Reporting
3301 C Street Suite 500 Tel: (916) 445-8756
Sacramento CA 95816 FAX: (916) 323-4807

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

October 31, 2000, I served the:

**Dismissal of Education Code Sections 60605 and 60607,
subdivisions (b)-(e) from:**

Test Claim: *Standardized Testing and Reporting*

(formerly *Academic Assessments*) 97-TC-23

San Diego Unified School District

Education Code Sections 60607, subdivision (a), 60609,

60615, 60630, 60640, 60641, and 60643

Statutes of 1997, Chapter 828

Title 5, California Code of Regulations, Sections 850-874

by placing a true copy thereof in an envelope addressed to:

Mr. James A. Cunningham

Legislative Mandate Specialist

San Diego Unified School District

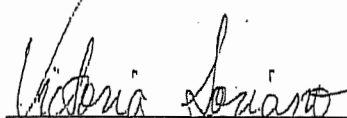
4100 Normal Street, Room 3159

San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 31, 2000, at Sacramento, California



Victoria Soriano

COMMISSION ON STATE MANDATES

10 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 823-8562
FAX: (916) 445-0278
Email: csminfo@osm.ca.gov



October 19, 2000

Ms. Kathryn Radtkey-Gaither
Department of Finance
915 L Street
Sacramento, CA 95814

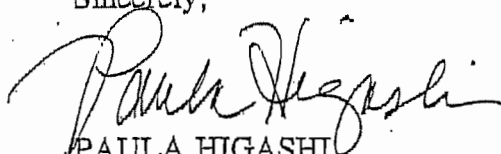
Re: **Extension of Time Request**
Standardized Testing and Reporting, CSM 97-TC-23
San Diego Unified School District, Claimant

Dear Ms. Radtkey-Gaither:

Your request for an extension of time to file comments on the parameters and guidelines for the above-named claim is approved for good cause. Comments are now due on or before November 20, 2000.

Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,


PAULA HIGASHI
Executive Director

cc: Mailing List

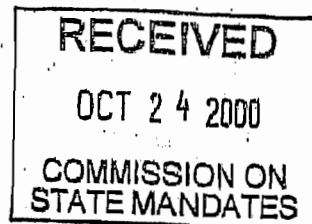
f:/mandates/1997/97tc23/extok



KATHLEEN CONNELL
Controller of the State of California

October 18, 2000

Ms. Shirley Opie
Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



RE: PROPOSED PARAMETERS AND GUIDELINES
STANDARDIZED TESTING AND REPORTING, 97-TC-23
EDUCATION CODE SECTIONS 60607, ET AL
STATUTES OF 1997, CHAPTER 828
TITLE 5, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 850 - 874

Dear Ms. Opie:

We have reviewed the proposed Parameters and Guidelines submitted by the San Diego Unified School District for the above subject matter. The following are suggested amendments:

1. Under B. Acquiring Test Materials, Supplies and Equipment, delete the phrase in the first sentence "Activities associated with the acquisition of any materials, supplies and /or equipment required by the STAR program, including, ~~without limitation~~, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable." (Deletion).

This suggested change is necessary to prevent the reimbursement of excessive purchases beyond the amount that is required by the mandate.

2. Under D. Test Administration, delete the last phrase in the sentence "...that the time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, ~~unless the teacher is paid an additional sum for such time.~~"

This suggested change is necessary because the mandate does not require the STAR test to be given at any time other than normal school hours. In addition, the mandate does not require a district to pay extra gratuity to a teacher during normal classroom hours when pupils are taking the STAR test.

3. Under E. Reporting and Record Keeping, make an adjustment to the last sentence. "The cost of materials and supplies used for reports (including, ~~without limitation~~, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component."

This suggested change is necessary to prevent a district from claiming excessive purchases. Reimbursement is provided only for the cost of materials and supplies that are consumed or expended for the mandate.

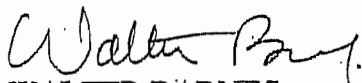
4. Under V.5. Travel, delete the phrase in the first sentence "Travel expenses, including, ~~without limitation~~, mileage, transportation, meals, per diem, lodging, parking, and telephone, are reimbursable accordance with school district procedures.

This suggested change is necessary to prevent reimbursement of unnecessary travel costs beyond the requirement of the mandate.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list that accompanied your letter dated October 2, 2000, have been provided with copies of this letter via either U. S. Mail or, in the case of state agencies, Interagency Mail service.

If you have any questions, please contact Ms. Ginny Brummels, Supervising Analyst, at (916) 323-2364.

Sincerely,



WALTER BARNES
Chief Deputy State Controller, Finance

WB:WGA:glb

cc: Interested parties

PROOF OF SERVICE BY MAIL

CSM - 97-TC-23

I, the undersigned, declare as follows:

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of 18 years and not a party to the within action. My place of employment and business address is 3301 C Street, Suite 500, Sacramento, California 95816.

On October 20, 2000, I served the attached recommendation of the State Controller's Office by placing a true copy thereof enclosed in a sealed envelope addressed to each of the persons named below at the addresses shown and by depositing said envelopes in the United States mail at Sacramento, California, with postage thereon fully prepaid.

Mr. Paige Vorhies
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mr. James Lombard
Department of Finance
915 L Street
Room 8020
Sacramento, CA 95814

Mr. Jim Spano
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Harmeet Barkscat
Mandate Resource Services
8254 Health Peak Place
Antelope, CA 95843

Carol Berg, Ph.D.
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814.

Ms. Laurie Mc Vay
DMG-MAXIMUS
4320 Auburn Blvd.,
Suite 2000
Sacramento, CA 95841

Mr. Paul Minney
Girard & Vinson
1676 N. California Blvd., Suite 450
Walnut Creek, CA 94596

Mr. Andy Nichols
Vavrinek Trine Day & Co., LLP
8300 Fair Oaks Blvd.,
Suite 403
Carmichael, CA 95608

Mr. Anthony Murray
Loeb & Loeb
1000 Wilshire Blvd., 18th Floor
Los Angeles, CA 90017

Mr. Allan Burdick
DMG MAXIMUS
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Suite 2000
Sacramento, CA 95841

Mr. Keith B. Petersen
Sixten & Associates
5252 Balboa Avenue
Suite 807
San Diego, CA 92117

Mr. Jim Cunningham
Legislative Mandate Specialist
San Diego City Schools
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

Mr. William A. Doyle
Mandated Cost Administrator
San Jose Unified School District
1153 El Prado Drive
San Jose, CA 95120

Mr. Dean Getz
Vavrinek Trine Day & Co., LLP
8300 Fair Oaks Blvd., Suite 403
Carmichael, CA 95608

Mr. Steve Smith
Mandated Cost Systems
2275 Watt Avenue
Suite C
Sacramento, CA 95825

Mr. Scott Hannan, Manager
Department of Education
School Business Services
560 J Street, Suite 170
Sacramento, CA 95814

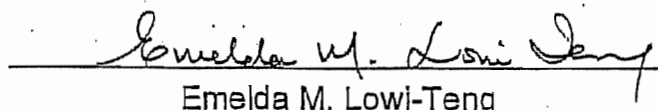
Mr. Wayne Martin
Director of Budget and Accounting
Stockton Unified School District
701 N. Madison Avenue
Stockton, CA 95202-1687

Mr. Joseph D. Mullender, Jr.,
Attorney at Law
89 Rivo Alto canal
Long Beach, CA 90803

Mr. John B. Mockler
Executive Director
State Board of Education
721 Capital Mall, Room 532
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 20, 2000, at Sacramento, California.


Emelda M. Lowi-Teng

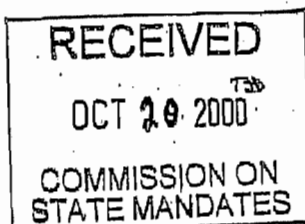


DEPARTMENT OF
FINANCE

GRAY DAVIS, GOVERNOR

915 L STREET ■ SACRAMENTO, CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

October 17, 2000



Ms. Paula Higashi
Executive Director
Commission on State Mandates
(U.S. Bank Plaza Building)
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

This letter is to inform you that the Department of Finance has conducted a preliminary review of the parameters and guidelines, Standardized Testing and Reporting (CSM 97-TC-23), and as a result of the review, we have concluded that we need additional time to prepare our response.

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328, or James Lombard, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

Kathryn Radtkey-Gaither
Program Budget Manager

PROOF OF SERVICE

Test Claim Name: Academic Assessments

Test Claim Number: CSM-97-TC-23

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On October 17, 2000, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

B-8

State Controller's Office
Division of Accounting & Reporting
Attention: Paige Vorhies
3301 C Street, Room 500
Sacramento, CA 95816

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

E-8

Department of Education
School Business Services
Attention: Scott Hannan
560 J Street, Suite 170
Sacramento, CA 95814

Mandated Cost Systems, Inc.
Attention: Steve Smith
2275 Watt Avenue, Suite C
Sacramento, CA 95825

San Diego Union High School District
Attention: James Cunningham
1130 Fifth Avenue
Chula Vista, CA 91910-2896

San Jose Unified School District
Attention: Mr. William A. Doyle
1153 El Prado Drive
San Jose, CA 95120

Vavrinek Trine Day & Co., LLP
Attention: Mr. Dean Getz, Director
8300 Fair Oaks Blvd., Suite 403
Carmichael, CA 95608

DMG MAXIMUS

Attention: Mr. Allan Burdick
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Loeb & Loeb

Attention: Mr. Anthony Murray
1000 Wilshire Blvd., 18th Floor
Los Angeles, CA 90017

Vavrinek Trine Day & Co., LLP
Attention: Mr. Andy Nichols
8300 Fair Oaks Blvd., Suite 403
Carmichael, CA 95608

Stockton Unified School District
Attention: Mr. Wayne Martin, Director
701 North Madison Street
Stockton, CA 95202-1687

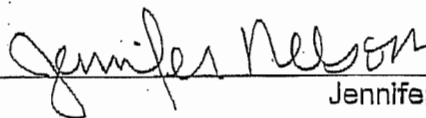
State Board of Education
Attention: John Mockler, Executive Director
721 Capitol Mall, Room 532
Sacramento, CA 95814

DMG MAXIMUS
Attention: Ms. Ferlyn Junio
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Girard & Vinson
Attention: Mr. Paul Minney
1676 North California Blvd., Suite 450
Walnut Creek, CA 94596

Sixten & Associates
Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 17, 2000 at Sacramento, California.



Jennifer Nelson

COMMISSION ON STATE MANDATES

80 NINTH STREET, SUITE 300
ACRAMENTO, CA 95814
PHONE: (916) 323-3662
FAX: (916) 446-0278
E-mail: csmInfo@csm.ca.gov



October 13, 2000

Mr. James A. Cunningham
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list)

RE: Item 16 - October 26, 2000 Hearing, Dismissal of Test Claim
Test Claim: *Academic Assessments* 97-TC-23
San Diego Unified School District
Education Code Sections 60605 and 60607, subdivisions (b)-(e)
Statutes of 1997, Chapter 828

Dear Mr. Cunningham:

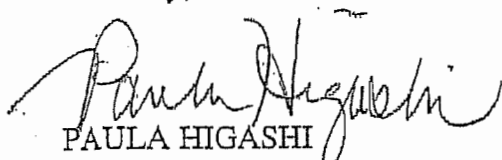
Enclosed is the Proposed Statement of Decision to dismiss the *Academic Assessments* Test Claim.

Hearing

This Proposed Statement of Decision is set for hearing on October 26, 2000 at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be placed on the Proposed Consent Calendar unless you inform us in advance that you or a representative of your agency will testify at the hearing, or if other witnesses will appear.

Please contact David E. Scribner, Staff Counsel, at (916) 323-8221 if you have any questions.

Sincerely,


PAULA HIGASHI
Executive Director

Enc. Proposed Statement of Decision

c. Mailing List

f:\Mandates\1997\97TC23\Correspondence\101200

ITEM 16

PROPOSED STATEMENT OF DECISION DISMISSAL OF PORTIONS OF TEST CLAIM

Education Code Sections 60605 and 60607, Subdivisions (b)-(e)
Statutes of 1997, Chapter 828

Academic Assessments

EXECUTIVE SUMMARY

On March 23, 1998, the San Diego Unified School District filed a test claim, 97-TC-23, alleging that Statutes of 1997, Chapter 828, imposed a reimbursable state mandated program upon school districts. Specifically, the claimant contended that, under the test claim legislation, school districts must administer achievement testing through two separate programs – the Academic Skills Assessment Program and the Standardized Testing and Reporting (STAR) Program.

On June 14, 2000, the claimant submitted a motion to withdraw Education Code sections 60605 and 60607, subdivisions (b)-(e) from test claim, 97-TC-23. These sections relate to the Academic Skills Assessment Program, which, by statute, is to be implemented in accordance with regulations adopted by the Department of Education. Claimant's motion to withdraw is based on the fact that the California Department of Education has not adopted regulations to implement the Academic Skills Assessment Program. In addition, claimant notes that the California Department of Education, in its 1999-2000 Standards and Assessment Update, states that the Academic Skills Assessment Program is currently on hold. Accordingly, school districts are neither engaging in any activities nor incurring any costs under the Academic Skills Assessment Program.

At the claimant's request, the remaining portion of the test claim was renamed Standardized Testing and Reporting. The Commission adopted its decision to approve this test claim at the August hearing.

Staff Recommendation

Based on the foregoing, staff recommends that the Commission adopt the Proposed Statement of Decision on the following page to record the dismissal of Education Code sections 60605 and 60607, subdivisions (b)-(e) from test claim, 97-TC-23.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE DISMISSAL OF PORTIONS OF TEST
CLAIM:

Education Code Sections 60605 and 60607,
Subdivisions (b)-(e), as amended by Statutes of
1997, Chapter 828;

Filed on March 23, 1998

By the San Diego Unified School District,
Claimant.

No. 97-TC-23

Academic Assessments

PROPOSED STATEMENT OF DECISION
PURSUANT TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Proposed on October 26, 2000)

PROPOSED STATEMENT OF DECISION

On March 23, 1998, the San Diego Unified School District filed a test claim, 97-TC-23, alleging that Statutes of 1997, Chapter 828, imposed a reimbursable state mandated program upon school districts. Specifically, the claimant contended that, under the test claim legislation, school districts must administer achievement testing through two separate programs – the Academic Skills Assessment Program and the Standardized Testing and Reporting (STAR) Program.

On June 14, 2000, the claimant submitted a motion to sever and withdraw Education Code sections 60605 and 60607, subdivisions (b)-(e) from test claim, 97-TC-23. These sections relate to the Academic Skills Assessment Program, which, by statute, is to be implemented in accordance with regulations to be adopted by the Department of Education.

CONCLUSION

IT IS HEREBY ORDERED that Education Code sections 60605 and 60607, subdivisions (b)-(e), as added by Statutes of 1992, Chapter 722, are dismissed from test claim, 97-TC-23.

The claimant, or another school district may file a new test claim on the above-referenced matter. However, such claim shall be subject to a new filing date and reimbursement period.

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Harmeef Barkschat, Interested person
Mandate Resource Services

8254 Heath Peak Place
Antelope CA 95843

Tel: (916) 727-1350
FAX: (916) 727-1734

Dr. Carol Berg, Ph. D.,
Education Mandated Cost Network

1121 L Street Suite 1060
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Tel: (916) 446-7517
FAX: (916) 446-2011

Mr. Allan Burdick,
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000
Sacramento CA 95841

Tel: (916) 485-8102
FAX: (916) 485-0111

Mr. Jim Cunningham, Leg. Mandate Spclst.
San Diego City Schools

4100 Normal Street Room 3159
San Diego CA 92103-2682

Tel: (619) 725-7565
FAX: (619) 725-7580

Mr. William A. Doyle, Mandated Cost Administrator
San Jose Unified School District

1153 El Prado Drive
San Jose CA 95120

Tel: (408) 997-2500
FAX: (408) 997-3171

Subject Chapter 828, Statutes of 1997
Issue Academic Assessments

Mr. Dean Getz, Director
Vavrinek Trine Day & Co., LLP

12150 Tributary Point Drive, Suite 150 Tel: (916) 944-7394
Gold River CA 95670 FAX: (916) 944-8657

Mr. James Lombard (A-15), Principal Analyst
Department of Finance

915 L Street Tel: (916) 445-8913
Sacramento CA 95814 FAX: (916) 327-0225

Mr. Wayne Martin,
Director of Budget and Accounting

Stockton USD, 701 North Madison Street Tel: (209) 953-4044
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Ms. Laurie McVay,
DMG-MAXIMUS

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Sacramento CA 95841 FAX: (916) 485-0111

Mr. Paul Minney,
Girard & Vinson

1676 N. California Blvd. Suite 450 Tel: (925) 746-7660
Walnut Creek CA 94596 FAX: (925) 935-7995

Mr. John B. Mockler, Executive Director (E-B)
State Board of Education

721 Capitol Mall Room 532 Tel: (916) 657-5478
Sacramento CA 95814 FAX: (916) 653-7016

Subject

Chapter 828, Statutes of 1997

Issue

Academic Assessments

Mr. Joseph D. Mullender, Jr.,
Attorney at Law

89 Rivo Alto Canal
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Tel: (562) 439-6376
FAX: (626) 962-7102

Mr. Anthony Murray,
Loeb & Loeb

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FAX: (213) 688-3460

Mr. Andy Nichols,
Vavrinek Trine Day & Co., LLP

12150 Tributary Point Drive, Suite 150
Gold River CA 95670

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FAX: (916) 351-1020

Mr. Keith B. Petersen, President
Sixten & Associates

5252 Balboa Avenue Suite 807
San Diego CA 92117

Tel: (619) 514-8605
FAX: (619) 514-8645

Mr. Gerry Shelton, (E-8)

Department of Education
School Business Services

560 J Street Suite 150
Sacramento CA 95814

Tel: (916) 322-1466
FAX: (916) 322-1465

Mr. Steve Smith, CEO (Interested Person)
Mandated Cost Systems

2275 Watt Avenue Suite C
Sacramento CA 95825

Tel: (916) 487-4435
FAX: (916) 487-9662

Subject Chapter 828, Statutes of 1997
Issue Academic Assessments

Jim Spano,
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518 P.O. Box 942850 Tel: (916) 323-5849
Sacramento CA 95814 FAX: (916) 324-7223

Mr. Paige Vorhies (B-8), Bureau Chief
State Controller's Office
Division of Accounting & Reporting
3301 C Street Suite 500 Tel: (916) 445-8756
Sacramento CA 95816 FAX: (916) 323-4807

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
NE: (916) 323-3562
.. (916) 445-0278
E-mail: csmInfo@csm.ca.gov



October 2, 2000

Mr. James A. Cunningham
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list)

RE: **Proposed Parameters and Guidelines**
Standardized Testing and Reporting, 97-TC-23
Education Code Sections 60607, et al
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations,
Sections 850-874

Dear Mr. Cunningham:

The Commission on State Mandates received San Diego Unified School District's Proposed Parameters and Guidelines on September 5, 2000. Staff reviewed the proposal and deemed it to be complete and timely filed.

Review and Comments. All state agencies and interested parties in receipt of this letter are invited to comment on the Proposed Parameters and Guidelines. Recommendations and comments must be submitted to the Commission by **October 17, 2000**. The claimant and interested parties may file rebuttals with the Commission by **November 1, 2000**. The claimant, state agencies, and interested parties are required to submit an original and two (2) copies of written responses or rebuttals to the Commission and to simultaneously serve copies on the test claimant, state agencies, and interested parties on the mailing list.

Hearing. If necessary, Commission staff will conduct a prehearing conference, tentatively scheduled for November 29, 2000. This matter is tentatively scheduled for hearing on January 25, 2001.

If you have any questions please contact Nancy Patton at (916) 323-8217.

Sincerely,


SHIRLEY ORLE

Assistant Executive Director

cc: Mailing list

Enclosure: Claimant's Proposed Parameters and Guidelines

CSM 97-TC-23
PROPOSED PARAMETERS AND GUIDELINES

Chapter 828, Statutes of 1997
Education Code sections 60607, 60609,
60615, 60630, 60640, 60641 and 60643
Title 5, California Code of Regulations
sections 850-874

Standardized Testing and Reporting

RECEIVED
SEP 05 2000
COMMISSION ON
STATE MANDATES

I. SUMMARY OF THE MANDATE

Chapter 828, Statutes of 1997, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Chapter 828, Statutes of 1997 and the implementing regulations at title 5, California Code of Regulations, Sections 850-874, established a program related to achievement testing that school districts must administer to pupils in the state – the STAR Program. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874 impose a new program or higher level of service within the meaning of section 6, article XIII B of the California Constitution.

II. ELIGIBLE CLAIMANTS

Any school district, as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Therefore, costs incurred on or after July 1, 1997 for compliance with the mandate are reimbursable.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Section 17561(d)(3) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of issuance of the claiming instructions by the State Controller.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, and travel incurred for the following mandate components are reimbursable:

A. Training, Policies, and Procedures.

Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to, reimbursement of the labor time of administrators, teachers, and other school district personnel involved with review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education), preparation of policies, procedures, and forms, preparation for training sessions; the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and travel and seminar expenses for the school district personnel who conduct or attend training sessions. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.

B. Acquiring Test Materials, Supplies and Equipment.

Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to, contacting the test provider and negotiating the purchase of the materials, preparing contracts or purchase orders for purchase of the materials, and administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.

C. Pretest and Posttest Coordination.

Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials

needs; conduct inventories of test materials received from the test publisher; resolve any discrepancies in the quantity of test materials received from the test publisher; distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of test materials received from the district; coordinate testing dates and make-up testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials at test sites to appropriate teachers or other school district personnel who administer the tests; prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials; maintain security over test material and test data; collect, collate and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each test site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and return test materials, test data, and enrollment data to the test publisher.

D. Test Administration.

Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through 11, inclusive, and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time.

E. Reporting and Record Keeping.

Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating and submitting to the State Department of Education the information on the STAR Program apportionment information report. The cost of materials and supplies used for reports (including, without limitation, paper and

envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.

V. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate. Claimed costs must be allocated according to the components of reimbursable activity described in Section IV.

A. Direct Costs.

1. Employee Salaries and Benefits

Identify the employee(s) and/or the classification of the employee(s) involved. Describe the mandated functions performed and specify the time devoted to each function by employee, productive hourly rate, and related fringe benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Materials and Supplies

Only the expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials and supplies which have been consumed or expended specifically for the purpose of this mandate.

3. Contracted Services

Provide the name(s) of the contractor(s) who performed the service(s). Describe the activities performed by each named contractor, and give the number of actual hours spent on the activities, if applicable, show the inclusive dates when services were performed and itemize all costs for those services. For fixed price contracts, list only the activities performed, the dates services were performed and the contract price. Attach a copy of the contract to the claim.

4. Fixed Assets

List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs and installation costs. If the equipment or other fixed asset is used for purposes other than for this mandate, only the pro rata portion of the purchase price is reimbursable.

5. Travel

Travel expenses, including, without limitation, mileage, transportation, meals, per diem, lodging, parking, and telephone, are reimbursable in accordance with school

district procedures. Provide the name(s) of the person(s) traveling, purpose of travel, inclusive dates of travel, destination(s), and travel expenses.

6. Training

The cost of training for the activities specified in Section IV is reimbursable. Identify the employee(s) by name and job classification. Provide the name of the training session, the dates of attendance, and the location. Reimbursable costs include, but are not limited to, salaries and benefits of personnel conducting or attending the training, registration fees, and travel expenses.

B. Indirect Cost

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
2. County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.

VI. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. These documents must be made available to the State Controller on the request.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings provided in the test claim statute that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, any additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate shall be identified and deducted from this claim to the extent that the claimant received such revenue, service charges, fees, or assessments. Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "other reimbursements."

VIII. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

Mailing List

Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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Subject

Chapter 828, Statutes of 1997

.sue

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Subject

Chapter 828, Statutes of 1997

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Subject

Chapter 828, Statutes of 1997

Issue

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FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

RECEIVED

SEP 15 2000

COMMISSION ON
STATE MANDATES

August 31, 2000

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: STAR Program- Proposed Parameters and Guidelines
CSM 97-TC-23

Dear Ms. Higashi:

I am enclosing an original and seven copies of the proposed Parameters and Guidelines for the Standardized Testing and Reporting (STAR) mandate.

Please me with any questions.

Sincerely,

James A. Cunningham
Legislative Mandate Specialist

Enclosure

cc: Dr. Carol Berg, w/enclosure
Keith Petersen, w/enclosure

CSM 97-TC-23
PROPOSED PARAMETERS AND GUIDELINES

Chapter 828, Statutes of 1997
Education Code sections 60607, 60609,
60615, 60630, 60640, 60641 and 60643
Title 5, California Code of Regulations
sections 850-874

RECEIVED

SEP 05 2000

COMMISSION ON
STATE MANDATES

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Chapter 828, Statutes of 1997, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Chapter 828, Statutes of 1997 and the implementing regulations at title 5, California Code of Regulations, Sections 850-874, established a program related to achievement testing that school districts must administer to pupils in the state – the STAR Program. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874 impose a new program or higher level of service within the meaning of section 6, article XIII B of the California Constitution.

II. ELIGIBLE CLAIMANTS

Any school district, as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Therefore, costs incurred on or after July 1, 1997 for compliance with the mandate are reimbursable.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Section 17561(d)(3) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of issuance of the claiming instructions by the State Controller.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, and travel incurred for the following mandate components are reimbursable:

A. Training, Policies, and Procedures.

Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to, reimbursement of the labor time of administrators, teachers, and other school district personnel involved with review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education), preparation of policies, procedures, and forms, preparation for training sessions; the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and travel and seminar expenses for the school district personnel who conduct or attend training sessions. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.

B. Acquiring Test Materials, Supplies and Equipment.

Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to, contacting the test provider and negotiating the purchase of the materials, preparing contracts or purchase orders for purchase of the materials, and administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.

C. Pretest and Posttest Coordination.

Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials

needs; conduct inventories of test materials received from the test publisher; resolve any discrepancies in the quantity of test materials received from the test publisher; distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of test materials received from the district; coordinate testing dates and make-up testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials at test sites to appropriate teachers or other school district personnel who administer the tests; prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials; maintain security over test material and test data; collect, collate and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each test site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and return test materials, test data, and enrollment data to the test publisher.

D. Test Administration.

Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through 11, inclusive, and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time.

E. Reporting and Record Keeping.

Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating and submitting to the State Department of Education the information on the STAR Program apportionment information report. The cost of materials and supplies used for reports (including, without limitation, paper and

envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.

V. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate. Claimed costs must be allocated according to the components of reimbursable activity described in Section IV.

A. Direct Costs.

1. Employee Salaries and Benefits

Identify the employee(s) and/or the classification of the employee(s) involved. Describe the mandated functions performed and specify the time devoted to each function by employee, productive hourly rate, and related fringe benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Materials and Supplies

Only the expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials and supplies which have been consumed or expended specifically for the purpose of this mandate.

3. Contracted Services

Provide the name(s) of the contractor(s) who performed the service(s). Describe the activities performed by each named contractor, and give the number of actual hours spent on the activities, if applicable, show the inclusive dates when services were performed and itemize all costs for those services. For fixed price contracts, list only the activities performed, the dates services were performed and the contract price. Attach a copy of the contract to the claim.

4. Fixed Assets

List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs and installation costs. If the equipment or other fixed asset is used for purposes other than for this mandate, only the pro rata portion of the purchase price is reimbursable.

5. Travel

Travel expenses, including, without limitation, mileage, transportation, meals, per diem, lodging, parking, and telephone, are reimbursable in accordance with school

district procedures. Provide the name(s) of the person(s) traveling, purpose of travel, inclusive dates of travel, destination(s), and travel expenses.

6. Training

The cost of training for the activities specified in Section IV is reimbursable. Identify the employee(s) by name and job classification. Provide the name of the training session, the dates of attendance, and the location. Reimbursable costs include, but are not limited to, salaries and benefits of personnel conducting or attending the training, registration fees, and travel expenses.

B. Indirect Cost

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
2. County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.

VI. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. These documents must be made available to the State Controller on the request.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings provided in the test claim statute that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, any additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate shall be identified and deducted from this claim to the extent that the claimant received such revenue, service charges, fees, or assessments. Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "other reimbursements."

VIII. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.

COMMISSION ON STATE MANDATES

1111 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csmInfo@csm.ca.gov



August 8, 2000

Mr. James A. Cunningham
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list)

RE: Proposed Statement of Decision - Item 12, August 24, 2000 Hearing
971023 Standardized Testing and Reporting
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Cunningham:

The Proposed Statement of Decision for this test claim is complete and is enclosed for your review.

Hearing

The Proposed Statement of Decision is set for hearing on Thursday, August 24, 2000 at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be placed on the Proposed Consent Calendar unless you let us know in advance if you or a representative of your agency will testify at the hearing, or if other witnesses will appear.

Please contact David E. Scribner, Staff Counsel, if you have any questions regarding the above.

Sincerely,

Paula Higashi
Executive Director

Enc: Proposed Statement of Decision

C: Mailing List

f:\Mandates\1997\971023\Correspondence\080800

WORKING BINDER:

CHRON:

FILE: X

DATE: 8/15/00

INITIAL: JS

MAILED: Mail List FAXED:

ITEM 12

PROPOSED STATEMENT OF DECISION APPROVED TEST CLAIM

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

Title 5, California Code of Regulations, Sections 850-874

Standardized Testing and Reporting

EXECUTIVE SUMMARY

On July 27, 2000, the Commission heard and approved this test claim by a 7-0 vote. Therefore, the sole issue before the Commission is whether the Proposed Statement of Decision accurately reflects the vote of the Commission.¹

BACKGROUND AND FINDINGS

The Commission noted that the test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state – the Standardized Testing and Reporting (STAR) Program.

The Commission found that immediately before the enactment of the test claim legislation, state law did not require school districts to administer achievement tests to pupils. Thus, the Commission found that the test claim legislation and regulations impose a new program upon school districts for the administration of the STAR Program.

The Commission further found that while the test claim legislation *authorized* the Superintendent of Public Instruction to apportion funds for administration of the STAR Program, the test claim legislation did not itself include “additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.” Thus, the Commission concluded that Government Code section 17556, subdivision (e), is inapplicable to this test claim. Accordingly, the Commission found that the test claim legislation imposed costs mandated by the state upon school districts. The Commission further found that funds received by school districts for the administration of the STAR Program pursuant to the State Board of Education's reimbursement rate should be offset against total claim amounts for this test claim.

¹ Title 2, California Code of Regulations, section 1188.1, subdivision (g).

CONCLUSION

Based on the foregoing, the Commission concludes that the test claim legislation and regulations for the STAR Program impose a reimbursable state-mandated program upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.
- Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).) Costs associated with teacher time to administer the test are not reimbursable.
- Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Inclusion of STAR Program test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Reporting of individual STAR Program test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)
- Reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)
- Submission of a report on the STAR Program to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
- Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds.

(a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.

- Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)
- Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)
- Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)
- Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)
- Exemption of pupils from the STAR Program tests upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)
- Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff.
- Implementation of procedures relating the administration of the STAR Program.

STAFF RECOMMENDATION

Staff submits that the attached Proposed Statement of Decision accurately reflects the Commission's actions taken at the July 27, 2000 hearing regarding the *Standardized Testing and Reporting* Test Claim. Therefore, staff recommends that the Commission adopt the attached Proposed Statement of Decision.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

No. 97-TC-23

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828;

Title 5, California Code of Regulations, Sections 850-874; and

Filed on March 23, 1998

By the San Diego Unified School District,
Claimant.

Standardized Testing and Reporting

PROPOSED STATEMENT OF DECISION
PURSUANT TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Adopted on August 24, 2000)

PROPOSED STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim on July 27, 2000 during a regularly scheduled hearing. James Cunningham, Richard Knott, and Robert Raines appeared for San Diego Unified School District. Jeannie Oropeza and Pete Zervinka appeared for the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 et seq., article XIII B, section 6 of the California Constitution and related case law.

The Commission, by a vote of 7-0, approved this test claim.

BACKGROUND AND FINDINGS

Background on Statewide Achievement Tests

The test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state - the Standardized Testing and Reporting (STAR) Program. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts are also required to engage in numerous activities related to test administration and reporting.

The state has required school districts to administer achievement tests to pupils for decades. For example, achievement tests were required for pupils in grades 6 and 12 under the California School Testing Act of 1969.² In 1972, the Legislature expressed its intent regarding pupil testing as follows:

"It is the intent of the Legislature . . . to determine the effectiveness of school districts and schools in assisting pupils to master the fundamental educational skills towards which instruction is directed. The program of statewide testing shall provide the public, Legislature, and school districts evaluative information regarding the various levels of proficiency achieved by different groups of pupils of varying socioeconomic backgrounds, so that the Legislature and individual school districts may allocate educational resources in a manner to assure the maximum educational opportunities for all pupils. The program or statewide testing shall identify unusual success or failure and the factors which appear to be responsible, so that appropriate action may be taken at the district and state level to obtain the highest quality education for all public school pupils."³

In 1990, the Legislature expressed that the purpose of California's public school system is to "facilitate the development of each and every one of its pupils to become a self-motivated, competent, and lifelong learner."⁴ The Legislature stated that: "the current pupil assessment system does not meet [these] purposes."⁵ The Legislature further declared that:

"There is no consistent system that pupils and parents can use to assess the performance of schools and school districts in providing effective programs and to measure the academic achievement of pupils. The five grade levels currently tested under the California school assessment program do not provide the most efficient assessment of overall pupil achievement."⁶

Statutes of 1990, Chapter 760 modified the state's achievement testing to require the testing of pupils in grades 4, 5, 8, and 10. Former Education Code section 60600.1, as added by Statutes of 1990, Chapter 760, provided that:

"[Chapter 760] shall remain in effect only until January 1, 1995, and as of that date is repealed unless a later enacted statute, which is enacted *before* January 1, 1995, deletes or extends that date." (Emphasis added.)

The Legislature did not enact a statute before January 1, 1995 that either deleted or extended the date regarding the administration of achievement tests. However, Statutes of 1995, Chapter 975, enacted the Leroy Greene California Assessment of Academic Achievement Act,

² See former Education Code section 12820 cited as Exhibit C in the claimant's test claim filing.

³ See former Education Code section 12821 cited as Exhibit C in the claimant's test claim filing.

⁴ Section 1 of Statutes of 1990, Chapter 760 cited as Exhibit E in the claimant's test claim filing.

⁵ Section 1.3 of Statutes of 1990, Chapter 760 cited as Exhibit E in the claimant's test claim filing.

⁶ *Ibid.*

which provided incentive funding for the provision of achievement testing to pupils in grades 2 through 10, inclusive, to each school district that certifies to the Superintendent of Public Instruction that they will administer such tests. The Commission notes that the achievement-testing program enacted under Chapter 975 was optional. Since the Legislature did not enact a statute by the requisite deadline set forth in Chapter 760, the Commission found that mandatory achievement testing was repealed by operation of law effective January 1, 1995.

Does the Test Claim Legislation Impose a New Program or Higher Level of Service?

The Commission found that the test claim legislation and regulations involve the administration of pupil achievement tests. Public education in California is a peculiarly governmental function administered by school districts as a service to the public. Moreover, the test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, the Commission found that administering pupil achievement tests constitutes a "program" within the meaning of section 6, article XIII B of the California Constitution.⁷

Prior Law Related to Achievement Tests

The Commission noted that the law in effect immediately before the enactment of the test claim legislation did not require school districts to administer achievement tests to pupils. Rather, prior law set up an incentive program for school districts that administer achievement tests to all pupils in grades 2 through 10.⁸ Former Education Code section 60640 provided \$5 per pupil tested to those districts that certified to the Superintendent of Public Instruction that it would administer achievement tests to all pupils in grades 2 through 10. Section 60640 did not require districts to administer achievement tests to those pupils.

The Test Claim Legislation: Current Law Related to the Standardized Testing and Reporting (STAR) Program

The Commission found that the test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state – the Standardized Testing and Reporting (STAR) Program.⁹

The Commission found that the STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education.¹⁰ The Commission found that

⁷ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 172.

⁸ See former Education Code section 60640 cited as Exhibit F in the claimant's test claim filing.

⁹ The Commission noted that the original test claim filing included portions of the Education Code that related to the Academic Skills Assessment Program. However, the Department of Education has yet to promulgate regulations to implement the Program. Therefore, the claimant filed a motion to partially sever and withdraw those portions of this test claim that relate to the Academic Skills Assessment Program.

¹⁰ The State Department of Education is administered through (1) the State Board of Education, which is the governing and policy determining body of the Department and (2) the Director of Education who is responsible for all executive and administrative functions of the Department and is the executive officer of the State Board of Education. See Education Code sections 33301, 33303. The State Superintendent of Public Instruction oversees

school districts must also: designate a STAR Program district coordinator and STAR Program test site coordinator at each test site; administer an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was enrolled in the district for less than 12 months before the time the last STAR Program test was administered; exempt pupils under certain circumstances; include STAR Program test results in the pupil's record or achievement; report STAR Program test results to the district's governing board or county board of education and to the pupil's parent or guardian; submit a report to the Superintendent of Public Instruction; contract with a test publisher to receive the tests; and submit whatever information the State Department of Education deems necessary to permit the State Superintendent of Public Instruction to prepare reports on the results of the STAR Program.¹¹

The Commission also found that the state had required school districts to administer achievement tests to pupils since the 1960's, until Statutes of 1991, Chapter 760, repealed the mandatory achievement-testing requirement as of January 1, 1995. Statutes of 1995, Chapter 975, enacted the Leroy Greene California Assessment of Academic Achievement Act (Achievement Act), which provided incentive funding for the provision of achievement testing to pupils in grades 2 through 10, inclusive, to each school district that certifies to the Superintendent of Public Instruction that they will administer such tests. The Commission found that under the Achievement Act, the law in effect between January 1, 1996 and October 10, 1997, the operative date of the test claim legislation, school districts could *voluntarily* administer achievement tests to district pupils. However, the test claim legislation reinstated mandatory achievement testing under the STAR Program beginning on October 10, 1997. Thus, the Commission found that the test claim legislation and regulations have imposed a new program or higher level of service upon school districts since the law in effect prior to the enactment of the test claim legislation did not require the administration of achievement tests.

Based on the foregoing, the Commission found that the test claim legislation and regulations impose a new program upon school districts for the administration of the STAR Program.

Does the Test Claim Legislation Constitute Costs Mandated by the State?

Testing In General

The Commission found that in order for the test claim legislation and regulations to impose a reimbursable program under section 6, article XIII B of the California Constitution, the newly required activities must be state mandated.¹² The issue of whether the test claim legislation and regulations imposed costs mandated by the state centers on whether Government Code section 17556, subdivision (e), applies.

The Commission recognized that Government Code section 17556, subdivision (e), provides:

the schools of this state and executes, under the direction of the State Board of Education, the policies that have been decided upon by the Board. The Superintendent is also ex-officio the director and executive director of the State Department of Education. See Education Code sections 33301-33303; 33111, 33112.

¹¹ See Education Code sections 60607, 60615, 60630 60640, 60641, 60643, and Title 5, California Code of Regulations, sections 851-853, 855-860, 865, 867-869, 871, 873.

¹² *Lucia Mar Unified School Dist.*, *supra* 44 Cal.3d 830, 835.

"The commission shall not find costs mandated by the state . . . in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

"
"(e) The statute . . . includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate."

The Commission also noted that section 60640, subdivision (h), provides:

"The Superintendent of Public Instruction shall apportion funds to enable school districts to meet the [STAR Program] requirements. . . . The State Board of Education shall establish the amount of funding to be apportioned. The amount to be apportioned shall be up to eight dollars (\$8) per test administered to a pupil in grades 2 to 11, inclusive."

The claimant contended that section 17556, subdivision (e), is inapplicable to the present test claim because section 60640, subdivision (h), did not appropriate additional revenue in an amount sufficient to fund the mandate.¹³ The claimant further contended that the State Board of Education's reimbursement rate of \$6.65 per test, with an additional \$0.15 per test for districts requesting preprinted answer sheets, is not enough to cover the cost of administering the STAR Program.¹⁴

The Commission found that the test claim legislation *authorized* the Superintendent of Public Instruction to apportion funds for administration of the STAR Program as established by the State Board of Education. However, the test claim legislation did not itself include "additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate." Thus, the Commission found that Government Code section 17556, subdivision (e), is inapplicable to this test claim. Accordingly, the Commission found that the test claim legislation imposed costs mandated by the state upon school districts.

The Commission noted that the Legislature has appropriated the following amounts for administration of the STAR Program in the state Budget Act: 1997-98 - \$30,400,000; 1998-99 - \$39,700,000; 1999-00 - \$42,100,000. The Commission noted that funds received by school districts for the administration of the STAR Program pursuant to the State Board of Education's reimbursement rate should be offset against total claim amounts for this test claim.

Testing of Children with Disabilities

The Commission found that the test claim legislation requires that: (1) children with disabilities be exempted from testing for pupils if the pupil's individualized education program has an

¹³ The Commission noted that the Department of Finance states: "we have concluded that the statute may have resulted in some costs mandated by the State."

¹⁴ See Claimant's test claim filing, Exhibit H, Nick Bohl's declaration. The claimant estimates it would cost San Diego Unified School District \$14.00 per test per fiscal year to administer the STAR Program.

exemption provision; (2) districts determine the appropriate grade level test for each pupil in a special education program; and (3) districts provide appropriate testing adaptation or accommodations to pupils in special education programs.

DOF contended that these activities stem from federal law and therefore, pursuant to Government Code section 17556, subdivision (c), are not reimbursable.¹⁵ The Commission recognized that Government Code section 17556, subdivision (c), provides:

"The commission shall not find costs mandated by the state . . . in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

"

"(c) The statute . . . implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute . . . mandates costs which exceed the mandate in that federal law or regulation,"

Specifically, DOF cited to subdivision (a)(16), section 1412 of the United States Code, which provides:

"(16) Performance goals and indicators

"The State—

"(A) has established goals for the performance of children with disabilities in the State that—

"(i) will promote the purposes of this chapter, as stated in section 1400(d) of this title; and

"(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;

"(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

"(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and

"(D) based on its assessment of that progress, will revise its State improvement plan under part A of subchapter IV of this chapter as may be needed to improve its performance, if the State receives assistance under that part."

The Commission found that, based on the plain reading of subdivision (a) above, that federal law *does not* require testing exemptions; the determination of appropriate test levels; or the

¹⁵ Department of Finance's July 10, 2000 filing at page 2.

provision of testing accommodations for children with disabilities. Therefore, the Commission found that these activities are reimbursable and that funding received by school districts for administration of the STAR Program shall be offset against reimbursement claims.

CONCLUSION

Based on the foregoing, the Commission concluded that the test claim legislation and regulations for the STAR Program impose a reimbursable state-mandated program upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.
- Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).) Costs associated with teacher time to administer the test are not reimbursable.
- Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Inclusion of STAR Program test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Reporting of individual STAR Program test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)
- Reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)

- Submission of a report on the STAR Program to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
- Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.
- Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)
- Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)
- Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)
- Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)
- Exemption of pupils from the STAR Program tests upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)
- Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff.
- Implementation of procedures relating the administration of the STAR Program.

Commission on State Mandates

List Date: 04/10/1998

Mailing Information

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Claim Number

97-TC-23

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Claim of San Diego Unified School District

Subject

Chapter 828, Statutes of 1997

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Claim Number

97-TC-23

Claimant

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Subject Chapter 828, Statutes of 1997

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JUL 21 2000

COMMISSION ON
STATE MANDATES

July 19, 2000

Paula Higashi
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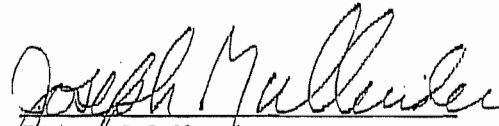
State Agencies and Interested Parties (See attached mailing list)

Re: Request to Be Added to Mailing List
Test Claim: *Standardized Testing and Reporting* 97-TC-23
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Ms. Higashi:

Please add me to the mailing list for the above test claim. My mailing address and telephone and fax numbers are as indicated above on my letter head.

Sincerely,


Joseph Mullender

Attorney for Long Beach
Unified School District

cc: mailing list

Commission on State Mandates

List Date: 04/10/1998

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Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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Subject Chapter 828, Statutes of 1997
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July 13, 2000

Mr. James A. Cunningham
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State Agencies and Interested Parties (See attached mailing list)

RE: Final Staff Analysis – Item 4, July 27, 2000 Hearing
Test Claim: *Standardized Testing and Reporting 97-TC-23*
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Cunningham:

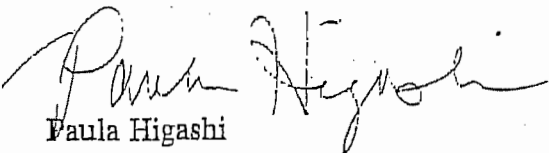
The final staff analysis of this test claim is complete and is enclosed for your review.

Commission Hearing

The test claim is set for hearing on Thursday, July 27, 2000 at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear.

Please contact David E. Scribner, Staff Counsel, if you have any questions regarding the above.

Sincerely,


Paula Higashi
Executive Director

Enc: Final Staff Analysis

C: Mailing List

f:\Mandates\1997\97tc23\Correspondence\071300

MAILED: Mail List FAXED: _____
DATE: 7-13 INITIAL: AS
CHRON: _____ FILE: _____
WORKING BINDER: _____

Commission on State Mandates

List Date: 04/10/1998

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Claim Number 97-TC-23 Claimant Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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Subject

Chapter 828, Statutes of 1997

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Chapter 828, Statutes of 1997

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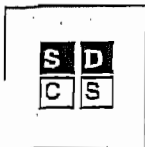
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JUL 07 2000

COMMISSION ON
STATE MANDATES

July 5, 2000

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980 Ninth Street, Suite 300
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Re: *Academic Assessments*
CSM 97-TC-23

Dear Ms. Higashi:

I am enclosing the signed Agreement to Waive Procedural Requirements Pursuant to Government Code Section 17554, relating to San Diego Unified School District's Motion to Sever and Partially Withdraw those portions of the Academic Assessments test claim that allege that the Academic Skill Assessment Program is a state-mandated new program or higher level of service. I have corrected the first page, which provides for the severing of Education Code section 60607. This section should not be severed in its entirety, since subdivision (a) requires (along with Education Code section 60641, subdivision (a)) that the results of the STAR Program tests in each pupil's individual record of accomplishment.

Please call me with any questions.

Sincerely,

James A. Cunningham
Legislative Mandate Specialist

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 60605, 60607,
60609, 60615, 60630, 60640, 60641, and
60643, as amended by Statutes of 1997,
Chapter 828;

Title 5, California Code of Regulations,
Sections 850-874

Filed on March 23, 1998

By the San Diego Unified School District,
Claimant.

No. 97-TC-23

Academic Assessments

AGREEMENT TO WAIVE PROCEDURAL
REQUIREMENTS PURSUANT TO
GOVERNMENT CODE SECTION 17554

The Commission on State Mandates, the Claimant, and the Department of Finance, agree as follows:

1. This agreement shall apply to the *Academic Assessments* Test Claim, 97-TC-23, as filed by the San Diego Unified School District on March 23, 1998.
2. Government Code section 17530 requires the Executive Director to expedite all matters with the jurisdiction of the Commission. Furthermore, Government Code section 17554 authorizes the parties to waive procedural requirements in order to expedite processing of test claims.
3. Title 2, California Code of Regulations, section 1183.05, requires that motions to sever portions of a test claim be filed within thirty (30) days of a completed test claim filing. Notwithstanding section 1183.05 of the regulations, the parties agree to waive this requirement.
4. The parties agree to sever Education Code sections 60605 and ~~60607~~ related to the Academic Assessments Skills Program from the test claim filing. The Test Claim will be renamed the *Standardized Testing and Reporting* Test Claim.
5. The *Standardized Testing and Reporting* Test Claim will be heard by the Commission at the July 27, 2000 hearing.

(partial) KEEP
60607
SUBDIVISION
(a)

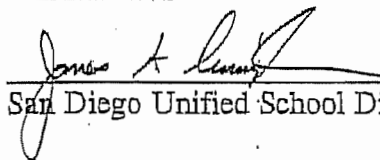
6. Upon receipt of this agreement to waive the procedural requirements of Government Code section 17554, the Commission will notice the severed portions for dismissal with leave to file a test claim upon the adoption of the State Department of Education's regulations for the Academic Skills Assessment Program.

COMMISSION ON STATE MANDATES

By: Paula Higashi, Executive Director

Date: _____

CLAIMANT


San Diego Unified School District

Date: 7/5/2000

DEPARTMENT OF FINANCE

Date: _____

f:\Mandates\1997\97tc23\Correspondence\Waiver



COMMISSION ON STATE MANDATES

1 STREET, SUITE 960
SACRAMENTO, CA 95814
3) 323-3562

April 10, 1998

Mr. James A. Cunningham
Legislative Mandate Specialist
4100 Normal Street
San Diego, CA 92103-2682

And Affected State Agencies (See Attached Mailing List)

RE: Test Claim: *Academic Assessments*
Chapter 828, Statutes of 1997 et al.

The Commission on State Mandates has determined that the subject test claim submittal is complete. The test claim initiates the process for the Commission to consider whether the provisions of the chapters listed above impose a reimbursable state mandated program upon school districts. The state agencies addressed via the mailing list are receiving a copy of this test claim because they have been identified as affected agencies that may have an interest in the Commission's determination of this test claim.

The key issues before the Commission are:

- Do the subject statutes, executive orders, standards and procedures result in a new program or higher level of service within an existing program upon school districts within the meaning of section 6, article XIII B of the California Constitution and section 17514 of the Government Code? If so, are there associated costs mandated by the state that are reimbursable?
- Do any of the provisions of Government Code section 17556 preclude the Commission from finding that the provisions of the subject statutes impose a reimbursable state mandated program upon school districts?

The Commission requests your participation in the following activities concerning this test claim:

- **Informal Conference.** No informal conference has been scheduled. One could be scheduled on April 22, 23, or 24, 1998, if requested by any interested party. (See section 1183.04 of regulations.)
- **State Agency Review of Test Claim.** By Monday, May 11, 1998, all affected state agencies receiving this letter are requested to analyze the merits of the test claim and to file written responses, opposition, or recommendations on its validity under the provisions of Government Code sections 17500 through 17630 and section 1183.02 of the regulations.

Alternatively, if a state agency chooses not to respond to this request, a written statement of non-response should be filed with the Commission. Requests for extensions of time may be filed in accordance with section 1183.01 (c) and 1181.1 (g) of the regulations.

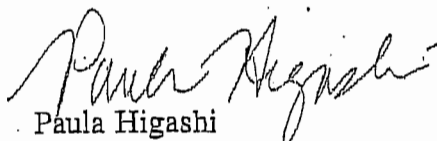
- **Claimant Rebuttal.** The claimant and interested parties may file a rebuttal to state agencies' responses, opposition or recommendations regarding the test claim under section 1183.02 of the regulations.
- **Public Hearing.** The public hearing on the test claim is tentatively set for **June 25, 1998**, at 9:30 a.m., in Room 437, State Capitol, Sacramento. State and school district representatives may provide testimony at this hearing. A court reporter will be present during the hearing to tape the proceedings in order to prepare a transcript. If the test claim is disputed, the hearing may be continued up to 260 days from the date of the Commission's receipt of the complete test claim. Requests for postponement of the hearing may be filed with the executive director in accordance with section 1183.01 of the regulations.

Your participation in the test claim process is important to the Commission. The determination of whether the claim meets the constitutional and statutory requirements for a reimbursable state mandated program will be based upon information provided by the claimant, state agencies, and other interested parties. Upon receipt of all of this information, Commission staff will prepare an analysis and recommendation for the Commission.

Should the Commission determine that a reimbursable state mandate exists, the Claimant is responsible for providing proposed parameters and guidelines for reimbursing all eligible local entities. In accordance with the Commission's regulations, all interested parties, including affected state agencies will be given an opportunity to comment on the Claimant's proposal. Finally, the Commission is required to adopt a statewide cost estimate of the reimbursable state mandated program within 18 months of receipt of a disputed test claim, or within 6 months of receipt of an undisputed test claim.

At this time, the test claim has been assigned to Piper Rodrian of our staff. If you have any further questions or concerns, please contact her at (916) 323-8218.

Sincerely,



Paula Higashi
Executive Director

Enclosure: Test claim filed by San Diego Unified School District

W/o enclosure: Mr. James A. Cunningham; Dr. Carol Berg; Mr. Richard Knott; Mr. Keith Petersen

f:\mandates\1997\97tc23\041098

Commission on State Mandates

mailing List

10-Apr-98

CSM/SB# and Claim Title 97-TC-23

Claim of San Diego Unified School District

Government Code Sec.

Chapters Chapter 828, Statutes of 1997

Originated: 10-Apr-88

Issue Academic Assessments

Mr. James Apps (A-15),
Department of Finance

915 L Street 8th Floor
SACRAMENTO CA 95814

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FAX: (916) 327-0225

Mr. William Ashby (B-8),
State Controller's Office
Division of Accounting & Reporting

3301 C Street Suite 500
SACRAMENTO CA 95816

Tel: (916) 324-5922
FAX: (916) 323-6527

Ms. Carol Berg, Ph. D.,
Education Mandated Cost Network

1121 L Street Suite 1060
SACRAMENTO CA 95814

Tel: (916) 446-7517
FAX: (916) 446-2011

Mr. Jim Cunningham, Leg. Mandate Spolst. (Interested Party)
San Diego City Schools

4100 Normal Street Room 3159
SAN DIEGO CA 92103-2682

Tel: (619) 293-8205
FAX: (619) 293-8474

Ms. Maria Johnson (E-8),
Department of Education

Fiscal Policy Division
560 J Street, Suite 170
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Tel: (916) 322-1645
FAX: (916) 327-6157

Mr. Richard Knott,
San Diego City Schools

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FAX: (619) 293-8474

Mr. Paul Minney, Interested Party
Girard & Vinson

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WALNUT CREEK CA 94596

Tel: (510) 746-7660
FAX: (510) 935-7995

CSM/SB# and Claim Title 97-TC-23

Claim of San Diego Unified School District

Government Code Sec.

Chapters Chapter 828, Statutes of 1997

Originated: 10-Apr-98

Issue Academic Assessments

Mr. Andy Nichols, Senior Consultant
David M. Griffith & Associates

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Mr. Keith B. Petersen, President (Interested Party)
Sixten & Associates

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SAN DIEGO CA 92117

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FAX: (619) 514-8645

Mr. Steve Smith, CEO (Interested Party)
Mandated Cost Systems

2275 Watt Avenue Suite C
SACRAMENTO CA 95825

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FAX: (916) 487-9662



SAN DIEGO CITY SCHOOLS

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

(619) 293-8205
Fax (619) 293-8474

FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

RECEIVED

MAR 26 1998

COMMISSION ON
STATE MANDATES

97-TC-23

Via Hand Delivery

March 24, 1998

Ms. Paula Higashi, Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, California 95814

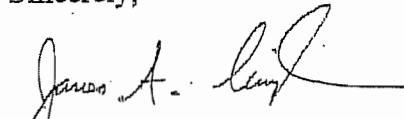
Re: *Academic Assessments* Test Claim
Chapter 828/97 *et al.*

Dear Ms. Higashi:

I am enclosing the original and three copies of the test claim for Chapter 828, Statutes of 1997, Education Code sections 60605, 60609, 60615, 60630, 60640, 60641, and 60643, and Title 5, California Code of Regulations sections 850-874.

Please let me know if you have any questions.

Sincerely,



James A. Cunningham
Legislative Mandate Specialist

Enclosures

cc: Dr. Carol Berg, w/enclosure
Keith Petersen, w/enclosure

